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Community: Test Case Over Valuation of Imported Drugs

National customs authorities may not only attach a higher value to an imported product but may also reduce the value stated in the customs declaration form, according to Advocate General Francesco Capotorti. Delivering his conclusions before the European Court of Justice on Feb. 12 in what is considered a test case (No. 65/79), Capotorti said that in evaluating a product customs may consider elements and factors not described in Community customs rules, in this instance Regulation Nos. 803/68 and 375/69 *(Common Market Reports, Pars. 314-315).*

Customs may determine the value of a product by comparing prices of identical products so long as the latter are offered under similar and normal conditions, Capotorti said. He emphasized, however, that only those prices could be considered which are charged by enterprises engaged in genuine competition; prices charged by state-owned firms could not. Prices of imitated products could be taken into consideration only to the extent that they are of the same quality and provided the manufacturer did not violate patent rights.

The French manager of the Swiss Sandoz Corp.'s subsidiary in France was brought to trial for having allegedly made false statements on the customs declaration form with

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Test Case *(contd.)*

respect to the value of ergotamine and dihydroergotamine imported from the parent company in Basel. The manager used as customs value the prices the parent company charged. French customs reduced the value, claiming the prices were grossly inflated. Customs arrived at its valuation by comparing the declared price with prices of similar products of different origin. The French manager was also charged with illegal repatriation of profits to Switzerland without paying income tax in France. A lower French court found him guilty but postponed sentencing so as to request preliminary rulings from the Court of Justice on the interpretation of three EEC customs regulations and the 1972 EEC-Swiss free trade agreement.

Sandoz maintained before the EC Court that the French customs' method of determining a product's value on the basis of imitated products could eventually block exports to France. It asserted that this method would be a blow to the research-intensive pharmaceutical industry. Sandoz also claimed that under Reg. No. 803/68, customs may raise the declared value under certain circumstances but never lower it. It was further argued that prosecuting the manager and banning the products' import represents a measure equivalent to a quantitative restriction and also violates the EEC-Swiss free trade agreement. Sandoz maintained further that the possible penalties - a heavy fine and/or imprisonment - were out of proportion to the alleged offenses.

The Commission and several Member State governments that submitted comments to the Court agreed that national customs may reduce the declared value, but there was some disagreement about what yardstick should be used. Both the Commission and France believe the inclusion of research costs in the price should be no obstacle to a comparison with the prices of imitated products. The Commission and the Member States agreed that Article 19 of the EEC-Swiss agreement does not prohibit national customs from declaring illegal a substantially increased import price paid by an EEC-based importer to the Swiss parent company when the government can prove that seller and buyer fraudulently agreed to overstate the price.

The Court is expected to hand down its decision this spring.

Mixed Reactions to U.K. Quota on U.S. Fibers

The European Commission's decision authorizing Britain to curb imports of low-priced U.S. synthetic fibers has produced mixed reactions. British textile industry executives considered the action inadequate because the Commission authorized quotas for 1980 on imports of only two of the three products listed in the British government's request, namely, polyester filament and nylon carpeting yarn. The request for quotas on man-made-fiber carpeting was rejected

U.S. Fibers
(contd.)

(Official Journal, No. L 45; Feb. 20, 1980). The 9,053-ton quota for polyester yarn and the 7,500-ton quota for nylon carpet yarn cover all countries except those with which the EEC has preferential or bilateral textile agreements. In effect, the quotas will apply mainly to imports from the U.S., Canada, and Japan.

Critics fear that the Commission measure could further build up tensions in U.S.-EEC trade relations involving a variety of products, especially man-made fibers, steel, and footwear. The Commission allowed the protective measure on the basis of evidence presented by Britain that polyester filament yarn imports from the U.S. rose from 7.1% in 1978 to 17.7% in 1979 and that these imports forced British fiber manufacturers to cut production and their work forces. Washington could use similar arguments in support of the U.S. steel mills' antidumping procedures against European steel exports, observers point out. Shoe imports from Italy and food imports from Denmark also present major problems for the respective U.S. industries.

Commission officials believe, however, there will be no escalation in the admittedly strained trade relations with the United States. Even U.S. officials have conceded that the success abroad of the American synthetic fiber industry is primarily due to the substantial price advantage resulting from low-cost access to naptha and gas, the base products. U.S. oil and gas prices are supposed to be brought up to world price levels within the next few years, but by that time the U.S. fiber industry will have a strong foothold in Britain and other foreign markets.

The EEC has a record of fairness so far as protective measures are concerned, officials of the EC executive say. Over the past decade, GATT Article 19 (the legal base for the U.K.'s request) has been invoked by the United States nine times and by the Community only twice. Furthermore, U.S. exports to the EEC increased in 1979 by 20% over the previous year, totaling $33.8 billion. By contrast, EEC exports to the U.S. rose only by 7% to $24.8 billion.

In Brief...

The new economic cooperation agreement between the EEC and Yugoslavia was initialed in Brussels on Feb. 25. The agreement will provide free access for practically all Yugoslavian industrial products to the Common Market. The partners would also cooperate in matters of technology, tourism, environment, and fisheries. The European Investment Bank would grant Belgrade a five-year credit of 300-million units of account + + + The Commission has decided not to seek an interim injunction from the Court of Justice against France for its refusal to comply with a September 1979 judgment that held the French ban on lamb imports from Britain to be illegal. This noncompliance is now subject to a new Commission action against France. The U.K. asked

In Brief (contd.)

the EC executive to force the issue by obtaining an injunction, but the Commissioners saw little point in doing so because Paris is expected again not to comply.

Germany: Environmental Safety Rules Proposed

The German government has proposed regulations designed to prevent or limit the effect of environmental accidents similar to that of the 1978 Seveso (Italy) disaster. Adoption is expected within the next two months. Subject to the Bundesrat's approval, the regulations would require all enterprises producing or using highly poisonous, carcenogenic or explosive substances or gases to draw up and file with the authorities a comprehensive safety report. Management would have to list the substances and gases and describe their properties (for example, flammability) as well as potential dangers. The company would have to describe the safety measures taken to minimize the dangers and list the emergency steps planned in the case of an accident. Another obligation would be to keep such safety measures in line with the latest technological developments.

Each company that produces or uses any of the total of 139 substances or gases enumerated in the proposal would have to draw up a safety report. The list includes cyanic acid, phosgene, hydrogen sulfide, chlorine, and all highly poisonous pesticides.

Management would have to report to the authorities immediately and in detail any plant accident with environmental consequences. This reporting requirement would also extend to "close calls." Failure to report these incidents would be subject to fines of up to DM 100,000. A plant manager who intentionally or negligently failed to fulfill the safety requirements for his plant could draw a jail sentence of six months to ten years.

Local authorities would transmit safety and accident reports to the Federal Environmental Office in West Berlin for evaluation. A national commission attached to the Federal Interior Ministry would advise the government on all aspects of accident prevention and steps to take in the case of an accident.

Although it was the Seveso accident that prompted Bonn to initiate legislation, there have also been a number of serious accidents in Germany in the past. In 1948 a railway tank filled with diethyl ether exploded at BASF, Ludwigshafen, killing 245 and injuring another 2,500. In 1971 a gas explosion at a plant in Emmerich caused the death of four persons, and in 1973 another gas explosion at a company in Gladbeck forced the evacuation of over 1,000. In several instances last year, companies had tried to cover up less serious environmental accidents, and on one occasion this was even attempted by local authorities.

Italy: Communists Rebuffed by Ruling DC

A premature dissolution of Parliament and early elections became again a distinct possibility in Italy after the annual congress of the ruling Christian Democratic Party (DC) came out against a Communist participation in government. Supported by 57.7% of the delegates, the decision on Feb. 22 effectively ruled out proposed negotiations over such a participation and was expected to lead to a further political polarization in Italy. It also amounted to a setback for Prime Minister Francesco Cossiga, ex-premier Giulio Andreotti, and outgoing party secretary Benigno Zaccagnini, all of whom are party "reformers" who support a more flexible position toward the Communists.

In hopes of possibly bridging political differences within the party, the 1,200 delegates subsequently voted to leave the election of a new party secretary to the DC's national council, which was to meet on March 5. The council is also to determine the party's course and strategy for the near future. However, observers pointed out that this body is definitely bound by the party congress's anti-Communist stance and thus will have very little maneuvering room.

A key role in the current situation is expected to fall to the Socialist PSI, which through a policy of voting abstentions in Parliament has indirectly supported the Cossiga administration. Socialist party leader Bettino Craxi said that, as a result of the DC's decision, this policy could no longer be guaranteed. (The PSI also had demanded negotiations with the Communists.) Nevertheless, Craxi reportedly would be willing to stall a national political crisis as long as possible, whereas his party's left wing is pushing for an immediate confrontation with the Christian Democrats.

Netherlands: Minister Quits Over Budget Savings Rift

A cabinet rift in the Dutch center-right coalition government has resulted in the resignation of Finance Minister Frans Andriessen. Andriessen's proposal for a 4-billion-guilder cut in public spending had met sharp resistance from a Christian Democratic party colleague, Social Affairs Minister Willem Albeda, who warned of the serious effects on employment and low-wage earners and recommended instead cuts of only 2 billion guilders. Andriessen resigned after a compromise figure of 3 billion proposed by Prime Minister Andreas van Agt was accepted by the rest of the cabinet, composed of ten Christian Democrats and six Liberals. Last year's budget deficit totaled more than 12 billion guilders, and the Budget Planning Office has estimated a probable 5.5-billion deficit for this year, representing 6.5% of GNP. Andriessen was supported in his stand for tougher measures by central bank president Jelle Zijlstra.

The revised budget plans were reported to Parliament.

Budget Rift *(contd.)*

as Albeda presented new legislation to deal with the worsening labor relations climate. After negotiations on a 1980 wage agreement between employers and the FNV trade union federation ended in a stalemate in early January, the government imposed a two-month wage freeze, due to end on March 10. Now The Hague wants to extend the freeze to April 12. It is also introducing legislation that would allow the government to set wage limits when trade unions and employers cannot agree and to moderate the effects on wages of the automatic cost-of-living escalator step due on July 1. The FNV is demanding a 2% growth in real-term wages for this year, but the government is insisting on 0.5% as the maximum possible.

In the meantime, the FNV has begun to organize "spontaneous" strikes in the Rotterdam area against the government policy, and these strikes were expected to spread across the country. FNV leader Wim Kok described the government stand as "unacceptable," pointing to the 4% increase in the cost-of-living index last year and the 8% increase expected in 1980.

The government has a slim majority of only 77 out of the 150 parliamentary seats, and opinion polls are showing that the opposition Labor Party and Democratic 66 Party would win a majority if an election were held now. Observers said this probably accounts for the mildness with which the right-wing Liberal coalition partners reacted to the loss of Andriessen, the Christian Democratic politician most sympathetic to their own viewpoint. Until a replacement can be found, the finance portfolio will be taken over by Economics Minister Gijsbert van Aardenne.

Britain: Less Immunity for Picketing, Boycotting?

U.K. Secretary for Employment James Prior has produced a consultative paper detailing proposals for changing the immunity that the law provides for "secondary industrial action," such as blacking (boycotting) and picketing. Prior said that this would give greater legal protection to those not directly concerned in a dispute and would permit them "to go about their business without unwarrantable interference."

The proposals came in the wake of increasingly militant action in industrial disputes, especially the current steel strike, as well as recent decisions by the House of Lords in this area. In the latest case, *Duport Steels and Others v. Sirs and Others,* the Court of Appeal was again overruled, and the Lords confirmed that the test of whether an action was in contemplation or furtherance of a trade dispute (thus being afforded legal immunity) was "purely subjective." Lord Diplock said that "if limits should be put upon the use of industrial muscle, the law as it now stands must be changed, and this ... can only be done by Parliament, not by the judges."

Immunity *(contd.)*

The government document lays down two tests that would have to be satisfied for trade unionists to retain their immunity. The action taken would have to be reasonably capable of furthering the dispute in question and would have to be taken "predominantly in pursuit of that trade dispute and not principally for some extraneous motive," otherwise an injunction or damages could be awarded. Therefore, a person who honestly believed he was helping one of the disputants might no longer be protected from legal action. However, trade unionists would have immunity in a "primary action" dispute between employees and their direct employer, and customers of an employer in dispute who are not themselves involved in industrial action but regularly get a "substantial" part of their business from such an employer may also be picketed.

Doubts have been expressed by leading lawyers as to the difficulties of judical interpretation of the new proposals. When, for example, is industrial action "predominantly" in pursuit of a trade dispute or "reasonably capable" of furthering a dispute? The proposals have, moreover, met with a hostile reception from the Trades Union Congress, which said that it was "entirely bogus" for the government to claim it was clarifying the law in view of three recent House of Lords judgments. According to the TUC, the government was in fact attacking the fundamental safeguards of workers and their unions, creating conditions in which no one could be certain of the law, "and pushing employers and unions further into the quagmire of complex legal argument."

Switzerland: Interest Ban Lifted for Foreigners

Responding to the steady weakening of the franc, the Swiss government and the National Bank on Feb. 21 removed some of the last restrictions on foreign Swiss-franc deposits in the country's banks. Nonresident depositors will now be able to receive interest payments on their accounts beyond the SF 100,000 ceiling previously in force. The measure is not expected to cause any sudden inflow of funds, since the authorities have been turning a blind eye to "loop hole" practices in which depositors went far above the ceiling by holding several accounts. However, it is hoped that there will be a substantial psychological effect.

Interest will still not be paid on inter-bank deposits, but it will be paid on central banks' time deposits of more than six months. The ceiling on forward sales of Swiss francs by domestic banks to foreigners have also been raised, from 20% to 40% of the level of Oct. 31, 1974, for transactions of ten days or less, and from 50% to 80% for those of more than ten days.

Depositors nevertheless find Swiss interest rates low by comparison with international levels, a situation that may be responsible for the continued fall of the franc af-

Interest Ban *(contd.)*

ter the announcement. Deposits affected by the measures earn between 4.25% (3-5 months) and 4.5% (6-12 months) interest, and domestic interest rates on savings accounts are as low as 2.5%-3.5% as well as being subject to a 35% clearing tax. The central bank's deliberate policy of holding down interest rates has resulted in the anomaly that Swiss franc rates are as high as 6% on 3-month Euromarket deposits, and large Swiss deposit holders are engaged in the lucrative business of transferring their deposits to Luxembourg. As a result, the central bank has had to act on several occasions to ease liquidity shortages in the Swiss money market.

In its explanation of the new measures, the National Bank for the first time admitted to "a tendency for the Swiss franc to weaken in relation to the main international currencies, which through increased import prices results in a domestic inflationary development." Switzerland at present has an inflation rate of about 5%, but the recently announced record budget deficit of SF 1.789 billion is causing worries about currency stability. The deficit overshot the target set for 1979 by SF 447 million, largely because tax receipts were 2.2% lower than expected. Discussions now center on whether the central bank will have to change its interest rate policy in the near future.

Austria: Exports Paced 1979 Upswing, OECD Says

The OECD Survey on Austria published in February stresses that the country's "highly satisfactory" economic performance last fall was due especially to the growth of Austria's own exports to the booming West German market and to other countries subject to the stimulus provided by the expansion of German import demand. For 1980, however, the OECD predicts a significantly reduced stimulus from foreign demand, leading to a GNP growth of only 2% in the first half of this year, with a subsequent slowdown to 1.5%. More unfavorable developments could result from any significant additional increase in the oil prices. In this case, the OECD stresses, the continuation of Austria's "remarkable" record of moderation in nominal income development would be crucial. However, the planned reduction in federal government borrowing "stems mostly from higher social security contributions and renewed fiscal drag which, together with a rise in earnings of about 5.5% and a consumer price increase of 4.5%, could lead to a stagnation of real disposable incomes."

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Community: Three States in Default Over Tax

The European Court of Justice has found Denmark, France, and Italy in default of the Treaty of Rome for imposing higher excise taxes on imported Scotch whisky than were imposed on domestically produced alcoholic beverages (judgments of Feb. 27, 1980; Case Nos. 168/78, 169/78, 171/78). Treaty Article 95 prohibits a Member State from directly or indirectly levying discriminatory taxes on products from other States *(Common Market Reports, Pars. 3001, 3002)*. These long-awaited judgments will not only have an impact on intra-EEC trade in alcoholic beverages but are also expected to revive the discussions on excise tax law harmonization proposals pending before the Council of Ministers.

In August 1978 the European Commission took Denmark, France, and Italy to court for favoring domestic alcoholic beverages over imported Scotch in terms of taxation. Denmark was alleged to have offered an excise tax preference to aquavit and schnapps, discriminating against imported spirits. France was charged with favoring domestic cognac, and Italy was accused of doing the same with respect to domestic brandy.

Since the discriminatory element in the three cases was obvious, the Court said, a major issue was whether the products involved were really similar within the meaning

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Excise Taxes *(contd.)*

of Treaty Article 95. Despite the difference in tastes and drinking habits of Danish, French, and Italian citizens, the Court arrived at the conclusion that, even where the similarity criterion is not fulfilled, all alcoholic beverages compete at least partially or potentially with each other. Thus, the ban on discriminatory treatment set out in Article 95 would be applicable. Still, the Court indicated it is not entirely opposed to preferential tax treatment of quality products if this assures the products a chance to compete with cheaper mass products. However, it emphasized that this treatment is not permissible if the objective is to discriminate against alcoholic beverages imported from other Member States.

In another case the Court refrained from rendering a judgment on the main issue and ordered the parties to report back by the end of the year about whether the issue has been settled (*Commission v. U.K.*, Case No. 170/78). Britain had been brought to court for violating Treaty Article 95 by failing to repeal or amend its excise tax provisions applicable to wine. (It imposes a £2.95 tax on a gallon of wine and £0.56 on a gallon of beer.) The Commission thought there should be no difference in the excise tax treatment of beer and wine. The Court remained skeptical about whether wine is really a substitute product for beer, as the Commission claimed. Although the Court recognized that the U.K. has substantially raised the wine tax since accession to the EEC, it found the present situation detrimental to the Common Market because wine remains tax-exempt in several Member States, while beer is subject to tax in all States.

In yet another judgment, Ireland was held in default of the Treaty for allowing deferment in the payment of excise duties on spirits made in Ireland while refusing this concession to imported spirits (Case No. 55/79). In the final judgment - important because of possible restitution claims by importers against national customs for overpaid excise duties - the Court gave a preliminary ruling requested by a Danish appellate court. Although the Court reiterated the principle that a State must return revenue collected in violation of the Treaty, it stated that repayment is governed by national law. Thus, a national government could take into consideration that the taxpayer did not suffer damage because the higher taxes were passed on to the consumer. As a result of the Court's ruling, the Member States may be spared large-scale claims. Still, the Court recognized a Member State's obligation to pay compensation if a business's sales declined because of higher excise duties on imported spirits (Case No. 68/79).

Revision of Draft Pact on Law Conflicts

The draft convention on the law applicable to contractual obligations that Commission and Member State experts have drawn up differs substantially from the 1972 preliminary

Law Conflicts *(contd.)*

draft, especially in that it does not include noncontractual matters *(Common Market Reports, Par. 6311)*. The purpose of the proposal is to establish uniform rules on conflicts of law within the Community so as to facilitate solutions to international commercial disputes between businesses and individuals. When a seller and a buyer from two different states cannot agree on a particular aspect of obligations that their contract does not provide for, the problem then is which law should be applied to solve the matter - the law of the seller's or the buyer's home state. In the absence of an express or implied choice of applicable law, there is at present no uniform way of determining which state law should apply.

The convention would provide the framework for settling problems arising from the diverse rules on conflicts of law. It would strengthen legal security as well as confidence in the stability of contractual relations arising from intra-EEC trade, and the protection of acquired rights. These effects could also be achieved through unification of substantive law, but that would be far more arduous and not attainable in the foreseeable future. Harmonizing the rules on conflicts of law is far more practicable because they apply exclusively to contractual relations that span national frontiers. The proposed uniform rules would apply not only to nationals and residents of the nine Member States but also to third-country nationals and residents.

The new draft reflects the comments from the governments of Denmark, Ireland, and the U.K., all of which were not involved in drafting the 1972 preliminary proposal. Among the features of the latest draft are fundamental changes in Article 6 dealing with employment contracts. That article would limit the parties' freedom to choose the applicable law to the extent that the actual choice made may not deprive an employee transferred to a job in another country the protection afforded him by mandatory rules in the absence of a choice.

Other major differences are that the proposed convention would not cover property rights and intellectual property such as industrial property rights. In contrast to the 1972 draft, the new draft convention would extend to gifts that arise from a contract, even when made within a family, provided the contract is not covered by family law such as matrimonial property rights and succession. Another major difference is that the new draft convention would also cover certain contracts made by consumers; for example, if an individual or business in France concludes a contract with a German company in response to an ad published by the latter in a French magazine, disputes arising from the contract would be covered by the convention. The 1972 draft did not touch on consumer relations.

In Brief...

The worldwide push toward higher interest rate levels continued at the end of February, when West Germany, Switzerland, and Belgium moved up their bank rates within two days. In Germany, the Bundesbank as of Feb. 28 boosted its discount rate from 6% to 7% and the Lombard rate by 1.5% to 8.5%. On the same day the Swiss central bank raised its discount and Lombard rates by one point each - from 2% to 3% and from 3% to 4%, respectively. On Feb. 27, the Belgian national bank had increased its discount rate by 1.5% to 12%; its Lombard rates went up by one point. German financial experts saw in the Bundesbank's move a reaction to considerable recent capital outflows, which reduced German foreign exchange reserves by several billion D-marks. Foreign investors are now increasingly attracted to the dollar because of the much higher interest levels prevailing in the United States. The Swiss motives for the discount rate rise are similar, and that country's action follows the most recent easing of interest curbs on Swiss-franc deposits maintained by nonresidents in Switzerland. The strengthening of the dollar (and the weakening of the franc against the D-mark) has been causing some price problems for Swiss imports and could herald inflation dangers for Switzerland. The situation is considered even more critical in Belgium, where the central bank authorities must prevent a further "drying out" of the domestic capital market and where, in fact, the government has been having difficulties placing its bond issues.

Netherlands: Budget Savings Proposal Comes Under Attack

Employer organizations and labor unions in Holland have joined in criticizing the government's budget policy that led to the resignation of Finance Minister Frans Andriessen last month and nearly brought on a political crisis. Andriessen described the compromise decision for 3 billion guilders in budget savings as "inadequate" and complained about the lack of a coherent finance policy encompassing public expenditure, incomes development, and private industry requirements. Half of the proposed savings, he said, would have no structural effects and would be no budget factor after this year.

Half of the projected savings are to be realized by across-the-board budget cuts affecting all government departments. In addition, the social insurance system would be affected by reductions of 750 million guilders and the public health sector, by 200 million. Regional governments and communities would be faced with cuts of 250 million guilders, and 300 million would be saved in civil service compensations through lower starting salaries and the "restructuring" of top salaries and pensions.

As part of its austerity drive, the Van Agt administration demands that the unions foresake any real-term wage increases this year and that part of the automatic infla-

Budget Savings *(contd.)*

tion adjustments be sacrificed. A wage freeze of undetermined duration would be the government's answer if the labor organizations refuse to cooperate. The employers are encouraged to negotiate multi-year collective contracts, which should include job guarantees and, wherever possible, shorter and more flexible worktime. It is planned to give parliamentary priority to proposed legislation on mandatory employee profit sharing, which has been under discussion for years *(Doing Business in Europe, Par. 31,035)*. Low-income groups are to benefit from some fiscal relief as of July 1, 1980.

The criticism of the labor unions is particularly directed against the government's threat of incomes intervention should collective bargaining not lead to the results hoped for by The Hague. To lend emphasis to their protests, the unions this month continued and stepped up a nationwide campaign of temporary work stoppages started in mid-February.

The government concedes that its program would have negative short-term effects on employment but hopes that job retraining aids and regional industrial promotion would largely compensate for this. Businesses might benefit from a temporary increase in bonuses paid for new capital investments, which would be expected to encourage production methods leading to energy and raw material savings.

Britain: Ratification of Tax Treaty With U.S.

The U.K.-U.S. double taxation treaty, originally signed on Dec. 31, 1975, was finally ratified by the British parliament on Feb. 18 and takes effect 30 days after the pertinent instruments have been exchanged. Many British companies are still unhappy about the provisions allowing U.S. state governments to apply a unitary taxation system to American subsidiaries of U.K. companies based on worldwide group profits rather than just locally derived income. However, it is felt that any further delay in implementing the treaty would serve no useful purpose.

The treaty will have many important consequences for both individual taxpayers and corporations in Britain and the U.S., and it will significantly alter the most advantageous means of carrying on business in both countries. It is in line with the format advocated by the Organization for Economic Cooperation and Development (OECD) and should result in a substantial increase of revenue to the U.K. government.

As regards dividends, U.K. resident companies with less than 10% of the shares of a U.S. corporation will be liable to U.S. withholding tax of 15% on dividends, as under the former 1945 treaty. U.K. companies that control 10% or more of a U.S. corporation will be subject to a withholding tax of 5%, compared with 15% previously. A

Tax Treaty *(contd.)*

U.S. company with less than 10% of a British company's shares will be entitled to a refund of the whole of advance corporation tax paid on dividends, less a withholding tax of 15% of the cash dividend plus the ACT paid. A U.S. corporation with a stake of at least 10% in a British company can recover half the ACT paid on its dividends, less a 5% withholding tax on the cash dividend, together with the ACT refund. This refund is treated as additional income for U.S. tax purposes. However, U.S. corporations are prevented from claiming refunds on dividends earned in periods of more than 12 months before they invested in the U.K. company's shares.

A U.S. corporation operating through a U.K. branch will not qualify for an ACT refund since it is not classified as a U.K. resident; thus, the tax remains at 52%. However, if the corporation operates through a U.K. subsidiary, which pays dividends, it will obtain ACT relief, and the effective rate of tax will be 45%. For this reason, it will generally be advantageous for U.S. corporations to incorporate a U.K. company to operate its British branch activities. For a British company, a branch in the U.S. will attract a slightly lower rate of tax than a U.S. subsidiary. Upon ratification, U.S. corporations with at least a 10% interest in a U.K. company will be entitled to ACT refunds on dividends transferred to the U.S. since April 6, 1975, while, if the shareholding is less than 10%, the relevant date is April 1, 1973.

The U.K. continental shelf is now part of Britain for tax purposes, and thus most regular North Sea operations by U.S. residents will be liable to U.K. tax. These operations will include activities by U.S. resident independent contractors there, unless these total less than 30 days a year. As concerns real estate companies, the withholding tax on rents paid to U.K. companies will be 30%, compared with 15% previously. The treaty specifically recognizes the existence of a "dually resident" company - a U.S. corporation managed and controlled in the U.K. Such a company will still be able to pay interest on acquisition loans, which is temporarily deductible in the U.S. and U.K. There is also provision made for the tax authorities to exchange information, to prevent fiscal evasion.

Ireland: Budget Sets Stiff Rise in Indirect Taxes

The Irish finance minister, Michael O'Kennedy, introduced the annual budget on Feb. 27, announcing broad increases in indirect taxation which are expected to raise £292 million (Irish pounds) this year. However, there are some concessions in direct taxes for PAYE employees who have been increasingly militant over the disproportionate amount of tax they have to pay. As a result of the budget, an additional 9,000 farmers will be liable to pay tax, and the disclosed earnings of the self-employed are to be more

Budget
(contd.)

closely scrutinized. There are also to be major public spending cuts to meet the realities of international inflation. Value-added tax on consumer items has been increased from 20% to 25%, while there is a rise of 20p per gallon on gasoline and of 5% in the excise duty on cars, from 35% to 40%.

The concessions to PAYE taxpayers will total £143 million this year, and the level of income that attracts the highest rate of 60% has been increased from £6,000 to £9,000. As a result, 180,000 people are no longer expected to fall within the higher tax rate but will just be subject to the standard rate of 35%. Married women will no longer have their income aggregated with that of their husbands, after a recent court ruling that penal tax rates on women are unconstitutional. Therefore, wives will receive the same personal allowance and be subject to the higher tax rate as if they were single persons.

Italy: Communists Warn Unions; Auto Industry

In an unprecedented public reprimand of the country's three big trade union federations, and in offers of assistance to the auto giant Fiat, the Italian Communist Party (PCI) has attempted to establish a credible policy of coresponsibility for the future of the country's economy. Writing in the PCI weekly, the party's leading economic expert, Senator Gerardo Chiaromonte, warned the trade unions to pay more attention to the needs of the workers in the underdeveloped south, the unemployed, and the youth, rather than to the mere reinforcement of the privileges of workers in the northern industrial belt.

According to Chiaromonte, the union's constant pursuit of higher wages is alienating workers' natural sense of justice, while causing serious damage to the flexibility and inclination to cooperate with other political forces in defining an effective national policy to strengthen the economic system and to increase productivity as a precondition for a real increase in incomes.

The PCI recently demonstrated its new policy approach by organizing a symposium on the future of Fiat, attended by party officials, union leaders, and workers. Fiat employs 600,000 of the 2.5 million workers in the Italian auto industry, but it suffered a 100-billion-lire loss last year as a result of 9 million strike hours. The symposium was wound up with a proposal to help Fiat by cooperating in making production more efficient and by setting new worktimes and more flexible overtime rules. The PCI is also proposing a program of state aid for Fiat, including aid for export and rationalization, and subsidies for decentralization of production in favor of the south. The Communists insist they are not seeking "creeping nationalization." Fiat management answered the PCI proposals by con-

Communists *(contd.)*

gratulating the party on having finally accepted some of the arguments advanced by the company for years.

France: Poor Economic Outlook; Tighter Credit

The French National Statistical Institute (INSEE) warns of stormy economic weather in the next months in a report published recently. According to INSEE, the cost in the next six months of the latest round of oil price increases will be a 7% rise in prices, a FF 15-billion deficit for the foreign trade balance, and 100,000 more unemployed. The Institute warns that the main impact of rising energy costs is still to be felt: the next few weeks particularly could see a serious downturn in industrial production, concomitant with increasing financial pressure on industry from steadily rising interest rates. Last year France achieved a GNP growth rate of 3.8%.

The set of economic statistics just released for January serves to confirm this bleak outlook. At 1.9%, inflation set a 21-year record for that month, while the January trade deficit was FF 4.63 billion - half the FF 10-billion deficit for the whole of last year. The government has calculated that higher energy costs contributed 0.8% to inflation in January. The energy factor also played a big part in the trade deficit: the net energy bill in January was FF 9.5 billion, up FF 1.4 billion from December and FF 4.5 billion from January 1979.

Prime Minister Raymond Barre used his speech in the National Assembly debate on Communist and Socialist censure motions to respond to the INSEE predictions. He emphasized in particular the much improved capacity of French industry to withstand international competitive pressures, and he reaffirmed the government's intention to combat the trade deficit by maintaining the parity of the franc. However, the January figures do in fact show some weakening in the capital goods export sector, where the trade surplus fell to FF 700 million from FF 1.9 billion in December. At the same time continuing high levels of domestic demand are showing up in the FF 7-billion import of consumer goods and domestic appliances in January, an 18% increase over the average for last year. Only the surplus in the food and agriculture sector, up 33% from January 1979 to FF 3.7 billion in January this year, shows a more positive note.

The national savings ratio continues to decline according to INSEE, falling to 16.5% in the last quarter of 1979, compared with 18.2% in 1978. The net result is a further tightening of credit, to the extent that the largest private commercial bank, Paribas, has raised its prime rate to 12.5%. The government is also planning measures to tighten credit control, with more rigorous ceilings on bank credit expansion from April onward.

Common Market Reports

EUROMARKET NEWS

Issue No. 583 *Report No. 392, March 18, 1980*

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Community: Hopes Fade for Plan to Cut Farm Costs

There is little chance that the European Commission's proposals to cut costs in the farm surplus sector will be approved by the Council of Ministers. Last November the Commission came forward with a series of draft measures, and last month it submitted more details to curb surplus production of milk, sugar, and beef in order to reduce the EEC's overall spending on the common agricultural policy by about 10%. (Farm costs account for almost 70% of the Community's annual budget.) The object of the proposals is not only to stave off the EEC's "bankruptcy," which the Commission predicts for 1981 unless something is done, but also to meet the criticism of taxpayers.

Among the steps the Commission proposed is an increase in the coresponsibility levy payable by farmers, from the current 0.5% to 1.5% as of April 1. Furthermore, farmers who sell milk in quantities exceeding 99% of their 1979 sales would have to pay an 84% levy on the excess (the so-called super levy).

Although most Member State governments agree that farm spending must be curbed, they do not consider the matter urgent enough to require action this year. The farm ministers, who met in Brussels on March 4, do not believe the Community is heading toward bankruptcy. France, Germany,

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Farm Costs *(contd.)*

and Ireland have ruled out any support for the super levy; each of these countries has a great number of small farmers who are raising milk production every year and would be hurt more by the super levy than the large-scale farmers in other States, such as the Netherlands and Denmark, who specialize in poultry, pork, and beef. The Commission believes the suggested super levy is the most important of the proposals because its adoption would signify the Council's political will to take the matter seriously. Commission officials suspect that possible political repercussions are precisely the reason why Germany's Schmidt administration, though basically favorably inclined to the Commission's drive, cannot make any move now because it might lose the farm vote in the October national elections.

Commission to Clamp Down on State Aids

The Commission is preparing to clamp down on state aid to enterprises, and it will no longer waive applications of the Treaty of Rome's rules governing the conditions for such aid. What caused this changeabout was the growing concern that high unemployment in the EEC (currently 6.5 million) would prompt Member State governments to outbid each other in offering grants to foreign investors, especially multinational corporations.

Treaty Article 92 bars any type of assistance to an individual enterprise or sector of industry if this distorts or threatens to distort competition and if trade between Member States is adversely affected. However, the provision allows government aid to promote the economic development of regions with serious underemployment or a low standard of living and to remedy serious disturbances in a State's economy. At no time may aid be given merely to rescue inefficient businesses or enterprises by paying for their losses *(Common Market Reports, Par. 2922)*.

Under Treaty Article 93 the Commission has the power to review and approve all state aids to determine their compatibility with the provisions of Article 92 *(Common Market Reports, Par. 2932)*. In recent months the Commission's competition division examined 51 applications involving planned state aid to individual companies; 29 were approved because the projects would contribute to industrial development and provide new jobs. An additional 20 applications are being scrutinized, with 14 of them expected to be rejected next month, when the Commission will announce its decisions. These 14 cases involve major U.S. companies, among them Exxon, Polaroid, and Rockwell, as well as Britain's ICI, Holland's Philips and Royal Dutch Shell, and Sweden's Tetra Pak.

Commission lawyers believe the Dutch and Belgian governments are the worst offenders because they offer financial aid to businesses not only in underdeveloped regions, which is compatible with Article 92, but also for new in-

State Aids *(contd.)*

vestments anywhere in the country, which is not. For instance, the Dutch government offered Polaroid a $3-million grant toward the cost of a new film factory at Enschede, and the Belgian government made a $5-million grant offer to Exxon toward the cost of a new refinery at Antwerp. Commission lawyers realize that a refusal of these other state aid plans would provoke a major confrontation with Member State governments, especially Holland and Belgium, but they are counting on help from the European Court of Justice.

Last July the Commission disallowed a $3-million subsidy planned by the Dutch government for a Philip Morris cigarette factory and office building at Bergen-op-Zoom, reasoning that the expansion would not affect unemployment appreciably. It was the Commission's belief that management of the U.S. tobacco group would go ahead with the plan even without the offered subsidy. To have granted the plan would have given the company an unfair advantage over European competitors, it was argued. Last October Philip Morris brought an action in the Court of Justice to challenge the Commission's decision (Case No. 730/79).

In Brief...

On March 7 the foreign ministers of the Nine, Commission vice-president Wilhelm Haferkamp, and government leaders of five Southeast Asian countries signed in Kuala Lumpur a cooperation treaty between the EEC and the ASEAN group comprised of Indonesia, Malaysia, the Philippines, Singapore, and Thailand. In the agreement the EEC offers most-favored treatment and a reduction in tariffs and quotas of products from the ASEAN countries. The five countries, in turn, will grant the EEC access to raw materials and improved investment opportunities + + + Reversing its previous stand, the Commission has applied to the Court of Justice for an interim injunction against France for the latter's illegal curbs on imports of British lamb. So far France has refused to comply with the Court's ruling of last September holding the ban to be illegal. On Feb. 26 France lifted the ban on lamb imports from Britain and other EEC states but immediately imposed a special levy to protect its farmers against cheaper British lamb. All mediation efforts by the Commission - including the offer of financial help to France and German Chancellor Schmidt's personal request to French President Giscard d'Estaing - were of no avail.

Germany: Bundestag OKs Merger Control Amendments

A nearly unanimous German Bundestag has approved a somewhat changed version of the government's proposal to amend the Law Against Restraints on Competition (GWB). Broadly speaking, the measure would better protect freedom of competition by tightening controls over mergers and market-dominating companies; it would also ease the Federal Cartel Office's task in exercising these controls. The amendments would change existing statutory assumptions and add several

Merger Controls *(contd.)*

new ones *(Doing Business in Europe, Par. 31,039)*. Most of the changes worked out between coalition and opposition members of the Bundestag's economics committee concern the merger control rules and criteria for determining a company's market dominance. The upper house was expected to approve the measure on March 21.

Since 1973, when the last amendments providing preventive merger controls took effect, large companies have developed a seemingly insatiable appetite for smaller businesses, thereby increasing their economic power. Present law does not prevent a large company from absorbing a small or medium-sized business so long as the annual sales of the company to be acquired do not exceed DM 50 million. Under the Bundestag-approved version the sales criterion would be lowered to DM 4 million (the government had proposed DM 2 million). The amendments would allow the Federal Cartel Office to intervene in a far greater number of proposed mergers than it can at the present time. Since there is general agreement that freedom of competition can also be preserved by a healthy mixture of enterprises of various sizes, small and medium-sized businesses could expect some indirect help from the Federal Cartel Office against large companies that want to enter markets traditionally served by smaller firms. The amendments would permit the assumption of market domination by a large company with annual sales of at least DM 2 billion that wants to acquire a small or medium-sized company.

An enterprise that abuses its market-dominating position, such as by charging excessive prices, could face damage claims from buyers dating back to the day the Cartel Office prohibited the practice. Present law allows an enterprise to go on charging abusive prices so long as the FCO's order has not become final - which might take several years if management fights the order all the way to the Supreme Court. If all the profits from charging excessive prices are not returned to buyers via damage suits, the cartel authorities could then force the business to return the remaining profits to the government.

Finally, the amendments would tighten the statutory ban on discriminatory practices by stores that ask for money or other favors from manufacturers in return for buying their products and/or displaying them favorably.

Netherlands: Powers Granted to Intervene in Wage Talks

New wage laws passed by the center-right majority in the Dutch parliament give the Netherlands the strictest government controls over wage negotiations anywhere in Europe. Despite its slender majority of only 77 seats in the 150-seat parliament, Premier Andries Van Agt's coalition of Christian Democrats and Liberals demanded, and was given for a two-year period, legal authority to intervene in any ongoing wage negotiations and impose upper limits on wage

Wage Controls *(contd.)*

increases compatible with government economic policy. Parliament also extended until April the current wage freeze, which had been scheduled to expire this month.

Holland's two major trade union federations, the Socialist-Catholic FNV and the Christian CNV, strongly oppose the new legislation, and they conducted an advertising campaign to influence the outcome of the parliamentary debate. The more militant FNV organized a series of protest actions leading up to a strike on the day of the debate involving about 200,000 workers in short stoppages, go-slows, and 24-hour strikes. Over 50,000 workers took part in protest marches in Amsterdam and Rotterdam. The disruptions affected the ports of the two cities, bus and postal services, and newspaper editions.

Social Affairs Minister Albeda, in presenting the new law to Parliament, explained that the government wants to bring about a 0.5-1.0% reduction in workers' real purchasing power. Present average earnings are about 34,300 guilders annually. The new law will permit The Hague to replace part of the automatic wage rise of 2.5% expected to be induced by the cost-of-living escalator in July by a tax reduction for the lower paid, said Albeda. Nevertheless, he offered both employers and trade unions an opportunity to come back to the bargaining table and conclude a voluntary agreement on wages acceptable to the government, before his ministry decides how to implement its new powers to enforce a settlement on its own terms.

The traditionally moderate trade unions have insisted that they are prepared to make sacrifices but that the government is refusing to consult with them about a just distribution of necessary budget savings and reductions. In return for a moderate wages deal, the unions are demanding a system of co-determination in the use of company profits, full implementation of the cost-of-living escalator in July, and a purchasing power guarantee for incomes below 34,800 guilders. One of their particularly insistent demands is for controls on oil company windfall profits arising from the higher price of Dutch North Sea gas. They are supported in this by the chairman of the Christian Democrat parliamentary faction, who has demanded measures to force the oil companies to reinvest their new profits in the Netherlands.

France: More Private Share Capital for State Firms

In a further move to introduce private shareholding into state-owned corporations, the second-largest insurance company in France, Assurances Générales de France, has announced that it is following Société Générale in opening up its planned capital increase of FF 70 million to subscription by private investors. At present Assurances Générales is 90% state-owned, with the remaining 10% in the hands of employees.

State Firms *(contd.)*

The new trend in government policy concerning the state-owned corporate sector can well be understood on the basis of official figures recently published. Between year-end 1973 and year-end 1979, the indebtedness of the sector more than doubled to FF 131.2 billion. In the same period state subsidies to the sector increased from FF 13 billion to 27 billion, and the 1980 budget includes provision for FF 34 billion of such subsidies. The financing of the capital increases necessary for many state-owned corporations is an obvious burden to the budget.

Economics Minister René Monory recently explained the policy in an interview. Not only will the state sector be opened up to a wider investing public, he said, but as a result it will be more responsive to the demands of its shareholders and of the international market. Additionally, a measure of private ownership will help French companies to conclude cooperation agreements with foreign firms, especially in West Germany and the U.S., where potential partners are often unwilling to become too deeply involved in collaboration with a state-owned company. Finally, the introduction of private shareholding will make it easier for French state-owned companies to adapt to changing market conditions by integrating operations with private domestic firms.

Monory made it clear that the government is not envisaging any kind of full-scale denationalization; the present lower limits permitted for state shareholdings (normally 50%; for banks and insurance companies, 75%) will be scrupulously adhered to.

Italy: Loan Scandal Hits Leading Savings Banks

In a financial scandal of unprecedented magnitude, top managers and directors of Italy's 25 largest savings banks have been placed under arrest for the alleged embezzlement of public funds in connection with the granting or improper obtaining of unsecured loans from Italcasse, the central institute of savings banks. In addition to detaining 40 individuals, the authorities confiscated the passports of 44 politicians, industrialists, and financiers implicated in these activities. Among the latter are present and former financial secretaries of the Christian Democrat, Republican, Socialist and Social Democratic parties.

The scandal, which was also seen as a threat to the current government, was triggered by Franco Evangelisti, the merchant marine minister, who admitted in an interview that he had accepted Italcasse funds for the financing of his political activities within the Christian Democratic party. Evangelisti's subsequent resignation from the cabinet early this month was followed by the arrest wave.

The police actions were instigated by Antonio Alibrandi, the Rome investigating judge who last year made head-

Loan Scandal *(contd.)*

lines by issuing a warrant against Paolo Baffi, then the central bank governor. Alibrandi charges that during 1970-77, some 1,000 billion lire in unsecured or illegal credits had been advanced to various companies out of a so-called white fund maintained by Italcasse, which takes some 30% of all bank deposits in Italy. The other individuals, whose passports have been confiscated, are being accused of having illegally passed untaxed profits, not registered in their company accounts, out of a "black fund" to representatives of the various political parties. The total amount involved here was given as 70-80 billion lire.

Portugal: Lisbon May Allow Private Banks, Insurers

The Portuguese center-right government of Francisco Sa Carneiro has received parliamentary approval of legislation permitting it to set up rules for the establishment of private banks and insurance companies. Although the new law will not affect the institutions that were nationalized during the 1974 revolution, it would permit new private firms to be founded eventually. Doubts exist, however, as to the constitutional validity of the legislation, since it is thought to enable the government to formulate a banking law and establish it by decree. As a result, President Eanes may refuse to promulgate the law.

Nevertheless, the administration's move is consistent with efforts to establish a more open economy, conducive to attracting foreign investment. The decision by French auto giant Renault to invest $1 billion in new production facilities in Portugal, mainly geared to the export market, is seen as the turning point in this respect. However, according to figures presented recently by the Portuguese Institute for Foreign Investment, there is still a long way to go: total cumulative foreign investment by the end of 1979 had reached only $600-700 million, less than the annual flow alone of such investment to Spain. Top investors at present appear to be the Swiss, who provide about one-third of the inflow, at $20 million per year.

EURO COMPANY SCENE

SRI

SRI International, Menlo Park, Calif., the U.S. research and consulting company that emerged in 1970 from the Stanford Research Institute, has opened a branch office in Bonn to coordinate SRI's activities in Germany, Switzerland, and Austria. The office is headed by Dr. Dirk Beckerhoff.

Maynard / Barry

The London-based management consultants H.B. Maynard and a Los Angeles counterpart, Theodore Barry & Associates, have merged into a new company, Maynard & Barry, Inc., with headquarters in Los Angeles.

Amev/ Interfinancial

Holland's second-largest insurance company, Amev, proposes to take over Interfinancial, an Atlanta, Ga., company active in life insurance, consumer credit, and property management. Amev reportedly is bidding $55 cash per share, which would value the deal at $134 million. Interfinancial revenues totaled some $150 million last year and net earnings, $14 million. The Dutch company already has various U.S. interests, most of them concentrated on its Time Insurance subsidiary.

International Harvester/ Enasa

International Harvester Co., Chicago, has agreed to acquire from the Spanish government a 35% stake in Empresa Nacional Autocamiones SA (Enasa), Madrid, Spain's leading manufacturer of industrial vehicles. Reports said that the cash deal involved is "nominal" but that IH is committed to major new investments in Spain. The company plans, for instance, to build a $100-million engine plant through a new company in which it holds a 65% interest. Enasa operates plants in Madrid, Barcelona, and Valladolid; it currently produces 15,000 industrial vehicles annually as well as construction machinery.

General Electric

According to U.K. reports, the United States' General Electric has tentatively decided to locate a $105-million production plant for synthetic industrial diamonds near Dublin rather than in Scotland. However, the GE board still was to make a final decision by the end of this month. The reports said that the U.K. government had been lobbying intensely to attract the plant, which would employ up to 700, to Scotland (probably Livingston New Town), but that Ireland's Industrial Development Authority was able to offer tax incentives beyond the grants that would be available both in the U.K. and Ireland. These incentives are based on the Irish tax holiday system under which foreign-owned manufacturers are virtually exempt from taxes on exported products until 1990. Because of EEC pressures, this arrangement will expire at the end of 1980, after which newcomers are subject to a 10% corporation tax.

Sandoz/ McCormick

Switzerland's Sandoz AG, the pharmaceuticals, foods and dyestuffs group, has renewed its takeover pressures on McCormick & Co., Inc., the U.S. spices company, by offering $37 per share, or $420 million. Last October Sandoz had bought 4.8% of McCormick's nonvoting stock, and since then the price of McCormick shares, which are traded over the counter, has risen from about $15 to $27.25 (March 6). The American company so far has vigorously fended off Sandoz's advances. Of McCormick's 11.32 million outstanding shares, only 1.82 million are voting shares. The company reported for the last business year (Nov. 30) sales of $457.2 million and net earnings of $19.4 million, or $1.71 per share.

Common Market Reports

EUROMARKET NEWS

Issue No. 584 *March 25, 1980*

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Community: Action Against Four States Over Equal Pay

The European Commission has taken preliminary procedural steps against Belgium, Luxembourg, the Netherlands, and the U.K. for failure to comply with Community rules on equal pay for men and women. The four governments have been sent reasoned opinions, as provided by Treaty Article 169, and they have been given two months to respond. Should the responses be unsatisfactory, the Commission will then take the matter before the Court of Justice.

Treaty Article 119 and Council directive 117/75 of Feb. 10, 1975, require the Member States to stop all forms of discrimination on grounds of sex with regard to pay for equal work. The States were required to introduce or amend legislation to preclude discrimination in national law and in collective bargaining *(Common Market Reports, Par. 3942.15)*. In the Commission's January 1979 report on the progress of compliance, all States received poor grades: despite the number of years they had had to comply, seven States - Belgium, Denmark, France, Germany, Luxembourg, the Netherlands, and the U.K. - had failed to do so. The Commission asked the seven governments for an explanation. The answers of the Belgian, Luxembourg, Dutch and British governments were so unsatisfactory that the Commission sent the reasoned opinions.

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Equal Pay *(contd.)*

In Belgium, a married male civil servant receives a household allowance in addition to his regular pay; a married female civil servant receives the allowance only if she has children. Articles 3 and 4 of the 1975 equal-pay directive bar this kind of discrimination. Legislation to change the situation has been proposed, but the Commission reportedly doubts that adoption will be forthcoming in the near future.

In Luxembourg, married male civil servants are entitled to head-of-household allowances, and married men employed by banks, insurance companies, and the steel mills receive household and housing allowances; married women employed in these sectors also receive the allowances but only under conditions not applicable to men. A bill to bar discriminatory treatment in pay has been drafted by the Luxembourg government but has not been submitted to Parliament.

Holland's March 1975 law implementing the equal-pay principle falls short of the 1975 directive's requirements because it does not apply to public employees, a violation of Article 2. So far the government has not sent its bill to Parliament.

Under Britain's Equal Pay Act, an employee may not claim equal pay for work of equal value unless the employer maintains a job evaluation system; the Commission says equal pay should not depend on such a system.

Denmark, France, and Germany were not sent reasoned opinions. The Commission saw no point in further proceedings against France, which has abolished discrimination between men and women in the public sector with regard to paying household allowances to males only. The Commission intends to await the effects of the Danish bill to implement the equal-pay principle; the measure would apply only to people doing the "same" work and not work to which "equal value" has been attributed. So far as Germany is concerned, the Commission has extended the time limit to June 1, 1980, to await the outcome of proposed legislation now in committee *(Doing Business in Europe, Par. 31,118)*.

First Birthday for European Monetary System

The European Monetary System's first anniversary passed this month without fanfare but there are still disputes about the arrangement's effectiveness. The purpose of the EMS is to provide a zone of monetary stability in Europe; this is to be achieved by an exchange rate support mechanism and credit resource policies backed up by a new policy of coordination aimed at bringing the countries' economic policies closer together. The member countries (all EC Member States except the U.K.) are committed to prevent their currencies from rising or falling against each other by more than 2.25%; Italy is bound to a 6% margin *(Common Market Reports, Par. 10,117)*.

Monetary System *(contd.)*

The system's supporters, including the Commission, say the EMS has worked rather well: despite the sharp crude-oil price rises, the average fluctuation of each national currency in 1979 amounted to only 1.9%, compared to 5.2% during the past few years. Aside from two minor adjustments in the exchange rates last September and November, there has been no other event to mar the system's operation. All central banks have intervened at one time or another, mostly by using U.S. dollars, but the currencies of the member countries were utilized far more than ever before.

Critics point out that the EMS has so far failed to bring economic policies closer together; in fact, the disparities in inflation rates are now greater than they were a year ago. Currency stability has been achieved at a high price, the critics charge, since the central banks were forced to sell large amounts of foreign exchange in order to keep the currencies' values aligned. Supporters of the system counter by saying that the EMS cannot be blamed for not halting inflation, which has mainly been spurred by the pressure from high oil prices.

There seems to be agreement that too little experience has been gained to have the system form a basis for establishment of the European Monetary Fund and a European Currency Unit in March 1981, as envisaged by the agreement. French President Valéry Giscard d'Estaing and German Chancellor Helmut Schmidt have reportedly agreed to delay setting up the Fund, and a formal decision by the Council of Ministers will be taken later this year. The Fund would become a fully independent central bank and the legal owner of the gold and currency lent to it by the member countries. The ECU would be transformed into a true currency issued to member countries against the gold and currency in the Fund.

In Brief...

Commission officials and government representatives from Austria, Finland, Iceland, Norway, Sweden, and Switzerland have started negotiations with the objective of adjusting those countries' free-trade agreements with the EEC in light of Greece's forthcoming accession to the Communities, which is scheduled for Jan. 1, 1981 + + + Although the Council agreed in principle last May on the insolvency draft directive that would harmonize national rules guaranteeing employees back pay in the event of employer bankruptcy, formal adoption has been held up by disagreement over the annexes to the draft measure, which list the categories of employees or sectors that would not be covered. One particular issue concerns the territorial application of a Community measure: the question is whether coverage would extend to employees of a Common Market-based company heavily engaged outside the EEC, such as in construction work in an Arab country.

Britain: More Details on Strike Insurance Fund

The Confederation of British Industry has provided some further clarification of how its proposed strike insurance fund is likely to operate. Scheduled to be launched by fall, the plan is being designed to make sure that a company would not be able to make an actual profit by closing its plants and claiming compensation when it had not suffered any real damage or loss. The CBI intends to set up the insurance arrangement as an offshore fund, which would obviate many of the restrictions of U.K. insurance legislation.

Nationalized industries belonging to the CBI would not be eligible because of the high strike rate in those sectors. Also, companies affected by strikes in the principal utilities, such as gas and electricity, would not be covered because in such cases all contributors to the fund would be affected equally. Normally such companies would be able to obtain compensation for some 75% of their overhead for a period of up to 50 days, but payments would be made only after the dispute had lasted for seven complete working days.

The participating companies would be covered for three eventualities:

- where one or more of its own plants were closed down as a result of the action of its own employees;
- where the plants were shut down on account of industrial action involving a primary supplier or customer; and
- where production in the company's plant was not totally stopped but only restructured by outside industrial action which had shut down the plants of such a primary supplier or customer.

It appears that the latter are to be categorized in the same way as in the proposed amendments to the government's new Employment Bill regarding secondary picketing. Observers said, however, that it would not always be easy to determine whether this criterion was fulfilled.

It would be for the individual company to decide whether all its operations should be covered by the plan, or merely certain subsidiaries or plants. The amount of insurance premiums would be determined by a company's record of strikes and unofficial stoppages and also by the degree of protection required. The suggested 75% compensation figure would be adjustable, and companies probably would be able to make claims for their own "lock-outs." Final approval of the insurance fund is expected to come at the CBI Council meeting next month.

OECD Predicts 2% GNP Drop for U.K.

The latest OECD economic survey on the United Kingdom, issued last month, anticipates a drop of some 2% in gross national product this year, which would entail increasing economic slack and a considerable rise in unemployment.

OECD Survey *(contd.)*

The survey foresees a higher level of pay settlements in the public rather than the private sector, reflecting the former's relative shortfall in the past few years, and assumes an increase in average earnings of about 17%, roughly the same underlying rate as in 1979. These high pay settlements would serve to compress profits to less than 6% of GNP this year. The price of imported goods is expected to climb steeply but at a rate slightly less than domestic costs. The year-on-year rise in prices in 1980 is thought likely to average 16.5%.

The OECD emphasizes that the strong inflationary pressures make absolutely essential the government's policy of firm control of monetary growth combined with a consistent fiscal policy. If there is to be more realism in incomes determination, there must be a necessary change in wage expectations and more understanding of the actual scope for nominal and real pay increases, the report notes. The scope for growth in the U.K. is judged considerable, but productivity is seen hampered by overmanning and restrictive practices. The survey concludes, however, that this potential will remain largely unexploited "unless the growth in nominal wages is moderated until the competitiveness and responsiveness of the economy improve and a greater share of national income is shifted to profits and investment..."

Germany: Noise Abatement Measure Close to Enactment

Passage of the traffic noise abatement bill by the Bundestag has brought an important piece of German environmental legislation closer to statutory life. (Upper-house approval is expected, since the Opposition is backing the measure.) Enactment would mean that residents near heavily traveled federal highways, state roads, and local streets exceeding the statutory noise limits would have an enforceable action against the government for noise abatement. This could involve the erection of earthwalls or sound-reflecting fences, or the partial reimbursement of the cost of taking independent remedial steps, like the installation of double-glazed windows. All levels of government - federal, state, and local - would probably have to invest about DM 1 billion each year over the next 20 years for noise abatement. The federal government would pay about 70% of the bill, not only because of noise abatement investments along new and widened federal highways but also because it would contribute 60% to the costs incurred by local governments.

For two years the two coalition parties have argued in committee about the proposed noise limits, costs, and what portion of a homeowner's investments should be reimbursed. As previously reported, the compromise differs substantially from the government's original bill *(Doing Business in Europe, Par. 31,006)*.

Netherlands: Wage Curbs Take Effect; Talks Stalled

Measures announced on March 13 put the Dutch government's strict new wages law into effect. Instead of the normal percentage wage increase awarded on July 1 according to a cost-of-living index escalator, employees will be restricted to a uniform monthly increase of 26 guilders each. To maintain the purchasing power of the minimum wage of 1,875 guilders per month, the government will allow a tax credit of 100 guilders for all wage earners. Above that level, there will be a reduction of 0.5-1.0% in the purchasing power of a 2,800-guilder wage packet and a 2.0-2.5% cut for a monthly wage of 5,700 guilders. The Hague is preparing similar provisions for the professional groups and for self-employed persons. The rules will leave a 0.75% maneuvering room for negotiations between employers and trade unions over bonuses, etc. There are also provisions for exceptions to be made in the case of dirty and unpleasant jobs where it becomes difficult to attract labor without higher wages.

In the meantime, however, all negotiations between employers, trade unions, and the government appear to have broken down. The trade union federations are continuing their protest stoppages against the new wages law and have rejected a government invitation to join renewed discussions on a 1980 wages pact. Employers in the metal industry have unsuccessfully attempted to get a court injunction to force a cessation of what they call "political strikes against the government's policy." The employers have made clear that they are unwilling to take part in any negotiations with the unions until the strikes are ended.

OECD Concurs on Economic Growth Forecast

The most recent figures issued by the government's Central Planning Bureau suggest that the Dutch GNP will increase by only 0.5% this year, after last year's 2.9%, and domestic demand will expand by as little as 1% (1.7%). The stagnation expected in exports will show up in an increase of the payments deficit to 2.5 billion guilders from last year's 2 billion, according to the Bureau. The OECD survey of the Dutch economy just issued concurs broadly with these predictions and emphasizes the deterioration which occurred last year in the domestic demand situation, despite the export improvements resulting from the expansion of the German and other European economies.

The OECD report provides some support for critics of government policy in recommending that a non-inflationary wages policy lean more on an effective containment of public expenditure to allow some alleviation of the squeeze on individual purchasing power. The OECD also favors a reduction of government expenditure on social security programs to boost the flexibility of the labor market as well as a reduction of employers' social security contributions to increase private-sector resources.

OECD Survey
(contd.)

The Netherlands is pointed out by the OECD as being in a good position to adopt medium-term policies to counter deflationary tendencies in the aftermath of last year's oil price increases. The advantages of self-sufficiency in energy supplies, resulting from Holland's North Sea gas, and a comparatively low rate of inflation, expected to be 7% in 1980, should be used in favor of the medium-term goals of improved industrial competitiveness through a reduction of costs and of the proportion of national resources taken by the public sector.

The government is, in fact, trying hard for an increase in the export price of Dutch natural gas, which usually follows about nine months behind international oil price increases. The Hague is exerting political pressure on the main buyers (West Germany, France, and Belgium) to obtain a 38% price boost as soon as possible. This would provide 3.5 billion guilders of extra revenue, enough to permit a substantial easing of taxation in some areas. Economics Minister Van Aardenne visited Bonn, Paris and Brussels not too long ago to persuade his partners to speed up negotiations over a revision of existing contracts. He is now threatening a cut in deliveries if agreement is not reached soon and recently announced to Parliament that technical arrangements have been made and funds set aside to make such a step feasible.

Denmark:
Debt-Ridden
Farmers Demand
State Support

Danish farmers, who export over two-thirds of their food production, have angrily threatened countermeasures if the government does not help them overcome their severe financial problems. The Agricultural Council, the national farmers' association, has warned of an impending wave of bankruptcies as its members are caught in a squeeze between rapidly accelerating costs (including interest rates of up to 20%) and a very slow rate of increase of agricultural prices. The farmers are also hard hit by changes in the wealth tax this year, and they complain that a special land tax imposed on them has wiped out all price gains resulting from last November's krone devaluation.

The government has responded with a plan to aid up to 2,000 farmers who have either bought their farms since 1974 or invested heavily in agricultural buildings since that year. The assistance consists of state guarantees covering 80% of farm debts up to a maximum 500,000 kroner, for which Copenhagen plans to set aside a total of 700 million kroner. However, with an average farm indebtedness of about 600,000 kroner, farmers see no real solution in the government's action, especially since it covers only 2% of them. The Agricultural Council, in a newspaper ad campaign, has pointed out that the average farmer earned 54,000 kroner in the last business year, which was no more than five years.

Farmers
(contd.)

ago. Within the same period, the pre-tax income of industrial workers has risen by 75% to an average 98,000 kroner, the Council claims.

The Agricultural Ministry disputes some of these figures, saying that many farm owners are pensioners or part-time farmers and that housing values are calculated too low in the Council's statistics. The Ministry maintains that there can be no special "safety net" for farmers, claiming that overoptimistic investments in the past have led to today's problems. Agriculture Minister Poul Dalsager is also resisting pressures to push for higher EEC farm prices because this would promote inflation and at the same time hasten the threatening collapse of the overburdened common agricultural policy.

France: Foreign Investments; Drug Prices

The United States lost its position as the top foreign investor in France in 1978, according to figures recently issued by the Economics Ministry in Paris. Net foreign investment increased from FF 7.9 billion in 1977 to FF 10.7 billion in '78, with the U.S. increasing its investment from FF 1.6 billion (18% of total foreign investment) to FF 2.2 billion (15%). The Dutch moved into first place with FF 2.3 billion in 1978, after FF 1.4 billion in '77. The fastest growth came from West Germany, the third-largest investor in France, which raised its share from 8.9% to 13.5%. Britain moved up from 9.4% to 12.4% of the total, and Italy from 3.3% to 5.1%.

Gross foreign investment in France in 1978 came to FF 15.2 billion, considerably more than the FF 11.2 billion of French investment abroad. However, 27% of that went into real estate, a category that does not amount to much in France's own investment abroad. Industrial investment accounted for 35.5% of foreign investment in France in 1978, and the services sector for about 32%.

In other news, the French Health Ministry has initiated a reform of the procedure involved in setting officially sanctioned prices for pharmaceuticals. It was announced that there will be in the future periodic and across-the-board price adjustments for drugs authorized under the social security system. (The most recent price increase, of 3%, took effect on Feb. 1.) The admittance of new drugs by a newly created commission is taking into account a drug's therapeutical novelty as well as its export potential. Critics say that this approach could well lead to favorable treatment of the domestic drug industry, at the expense of foreign manufacturers.

Common Market Reports

EUROMARKET NEWS

Issue No. 585 *Report No. 393, April 2, 1980*

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Community: Changes in Recognition of Companies Draft

The Council of Ministers working group discussing changes in the 1968 draft convention on the mutual recognition of companies, firms, and legal persons has written a few important amendments into the measure. The draft convention, which was ratified by five of the six original Member States but never took effect, had to be reviewed after the accession of Denmark, Ireland, and the U.K. The convention would ensure that a company established under civil or commercial law in one contracting state is recognized as a matter of law by all other contracting states if the registered office is in the Common Market. This would mean that out-of-state companies would be put on the same footing as domestic companies in terms of rights and obligations, contracts, and litigation *(Common Market Reports, Pars. 6251, 6255)*.

Under Article 3(2) of the Accession Act, the new Member States agreed to accede to this convention and others provided for in Article 220 of the EEC Treaty. The experts have been discussing possible changes since March 1979. A new second paragraph in Article 2 describing the entities engaged in economic activities would extend recognition to other legal entities formed under a contracting state's law that confers the capacity to have rights and incur obliga-

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Companies *(contd.)*

tions; this paragraph was added at the request of the U.K. and Ireland in order to extend coverage of the convention to certain bodies that are neither companies nor legal persons but are nevertheless legal entities that may act under their own name. Examples are trustee savings banks, which operate in both countries. The new second paragraph has not received the unequivocal backing of all delegations because it leaves open whether trade unions would be covered. Germany has suggested several changes with emphasis on economic activity to ensure that trade unions are not covered.

Another change concerns Article 4. As the draft stands now, a contracting state may apply domestic law to companies and legal persons whose seat is located in its territory even though these companies and legal persons were established under another state's law. The editorial change was suggested to emphasize that the provision leaves the choice of action to the contracting state. Similarly, according to a new Article 9a proposed by Denmark, a state could apply to companies and legal entities those provisions of its own law which it considers necessary, especially in public policy matters. The working party has not yet decided whether the provision is really necessary.

At the working party's most recent meeting last month, several delegations brought up the question of whether the convention still met the "necessity" criterion of Treaty Article 220, which says that the Member States shall, "so far as is necessary," enter into negotiations on the matter of mutual recognition of companies. To them the convention was certainly necessary in 1968, but since then considerable progress has been made in the fields of the right of establishment and company law coordination through Council acts and Court of Justice case law, especially the Reyners and Binsbergen judgments *(Common Market Reports, Pars. 1355, 1371, 1381, 1391, 1401, 1405, 1406, 8256, 8282)*. Commission lawyers do not believe that the convention will have lost its practical value by the time it takes effect.

Council Review of Commission's Fiber Ruling

Germany has asked the Council to review the European Commission's Feb. 21 measure placing quotas on British imports of U.S.-made polyester filament and nylon carpeting yarn. The quotas were imposed after London had presented evidence to the Commission that these low-cost yarns were swamping the British market and had caused a considerable drop in employment in the U.K.'s fiber industry (Official Journal No. L45, Feb. 20, 1980, pages 5 and 7).

A Member State may ask the Council to review a protective measure taken by the Commission; the Council then has three months to confirm, amend, or revoke the measure (Council Regulation No. 926/79; Official Journal No. L 131, May 29, 1979, page 15). Germany, with the backing of Holland and Denmark, has enough votes to prevent the Council from confirming the measure, but that is not Bonn's objec-

Fiber Ruling *(contd.)*

tive. It wants additional evidence from the Commission to support London's contention that the U.K.'s domestic fiber industry has been seriously affected by low-priced imports from the U.S. Bonn sees here a threat to free world trade that could have consequences beyond the fiber sector. That Germany's fears are well founded is corroborated by the fact that other Common Market-based fiber producers, especially from Italy, are now pressing for similar protection against U.S. exports, fearing that the cheaper products will cut domestic sales by roughly $2 billion this year.

Since the Commission had only five days to respond to the British government's demand for protective measures, it had no choice but to rely on the U.K.'s statistics. Nevertheless, the EC executive does not doubt the accuracy of the evidence, including figures reflecting the drop in employment in the U.K. fiber industry. The Commission believes a study of its own would show Washington that Britain had good reason to ask for the curbs and that the Commission acted correctly in imposing the quotas. Commission officials point out that quotas were imposed on only two products (the request concerning tufted carpets was rejected) and that the quota on nylon yarn was much higher than 1979 imports, thus allowing more imports of that product from the U.S. this year.

Meanwhile, the risk of a trade war between the EEC and the United States appears to be heightened by the recent action of American steel companies, which have filed antidumping suits in U.S. courts against major European steelmakers. If the suits are successful it would mean lost steel sales by EEC mills of about $1 billion in 1980. Moreover, the Commission has begun antidumping proceedings against the U.S. over low-priced exports of liquid nitrogen fertilizers.

In Brief...

The Council has formally adopted the sixth company law coordination directive dealing with the contents, checking, and distribution of prospectuses to be published when securities issued by companies are admitted to official stock exchanges. The purpose of the directive is to establish minimum requirements for information to be provided prior to an official stock exchange listing in order to keep shareholders and creditors informed and to protect their interests *(Common Market Reports, Par. 1405)* + + + Despite Commission efforts to find a compromise, the chances are that the Council will not soon adopt the two draft directives on architects because Germany refuses to retreat from its position. The measures would provide for mutual recognition of architects' diplomas and would permit an architect to establish himself in another Member State or provide services there from his home state. In the other eight States a diploma in architecture may be attained after four years of study, but in Germany an architectural

In Brief *(contd.)*

student may graduate after either three years' study at a technical school called a *Fachhochschule* or four years at a regular university. The eight States refuse to recognize a degree from a Fachhochschule without some additional training following graduation. The German architects' association is backing the position of those eight States.

Germany: Delay for Plan to Spread Capital Sharing

Because of the costs involved, the German government has backed down on its promise to broaden the existing concept of spreading capital ownership among employees. (In his December 1976 policy statement, Chancellor Helmut Schmidt had promised pertinent legislation during the current legislative session, which expires in October when the new Bundestag will be elected - *Doing Business in Europe, Par. 30,918*.) The announcement surprised many observers because the two government coalition parties only recently had settled their differences over a major aspect of spreading capital ownership. Both the Social Democrats and the Free Democrats had agreed to expand the concept beyond the so-called DM 624 Law by widening employees' opportunities to acquire stock of corporations. Most important, and as a concession to the unions, the coalition parties also reached an agreement on a new concept that would have allowed industry associations and individual unions to set up funds of their own that would be fed by employer contributions. How much would be paid in would be negotiated in collective bargaining, and the funds would issue certificates to the employees.

Finance Minister Hans Matthöfer estimates that an expansion of the existing system by raising the ceiling of tax-supported savings from DM 624 to DM 936 annually would cost the taxpayer DM 500 million to 1 billion each year. This is a sum the government cannot afford because it is committed to reduce public-sector borrowing.

Under the DM 624 Law, employees who save DM 624 annually and freeze the money for six years are entitled to a government grant of 30% of the total (40% when the saver has two or more children). A condition for the grant is that the employee's annual income does not exceed DM 24,000 (DM 48,000 for married taxpayers). Employers who contribute to the employee's savings either voluntarily or under a union contract may deduct the contribution from income tax liability. After six years the employee's capital (savings, employer's contribution, interest, and government grant) is paid out tax-free. It is estimated that in 1979 some 15 million out of the 24.5 million German employees saved roughly DM 9 billion under the concept, and the government's overall grants came to slightly over DM 2 billion. This cost to the taxpayer has been brought up repeatedly by critics, including a government-appointed commission searching for possible ways to cut fiscal spending.

Capital Sharing *(contd.)*

Until now, however, no serious attempt has been made to reduce the cost of the system.

Britain: Cuts Sought in State's Strike Payouts

The U.K. government has confirmed that it will shortly introduce legislation to reduce the amount of supplementary benefits paid out to the families of strikers. The intention is that the trade unions will have to bear part of the cost of stoppages from their own funds. Some £6 million is thought to have been paid out in state benefits during the first 12 weeks of the current steel strike. However, the principal steel union, the Iron & Steel Trades Confederation, has made no payments to its members, despite estimated reserves of £11 million.

The government is devising a formula by which the individual benefits would be cut by the amount "deemed" to have been paid out of union funds. It was reported that this would amount to £10-12 per week, or about half of the total now received. In this connection, Prime Minister Margaret Thatcher apparently has had a change of heart. Previously, she had stressed the difficulties of "deeming" because of the problems this would cause between trade unionists and nonunionists. Furthermore, it should not be easy to achieve a formula that will be both effective and equitable and which will cover both official and unofficial stoppages.

Reports said that it is not envisaged to make strike payments mandatory for unions, but on the other hand they would be assumed to present a distinct disincentive to strike action. The Conservatives' manifesto, before last year's elections, stated that "we shall ensure that unions bear their fair share of the cost of supporting their members who are on strike," and the government is now implementing this promise, taking advantage of the popular resentment of such payments. Employment Secretary James Prior, a noted moderate, said that unions will have to do "what ordinary people have to do," namely, "put a bit of money away for a rainy day, and their rainy day will be when they have a strike."

Presumably, the government measures would especially hit the smaller unions and possibly force them to levy increased contributions. This is one of the reasons why the Labour opposition has joined union spokesmen in describing the proposal as "monstrous" (ex-Premier Callaghan), predicting a massive bureaucracy.

Italy: Government Crisis; New Industry Boss

The resignation of Premier Francesco Cossiga and his cabinet on March 19 has triggered the 39th government crisis in Italian postwar history. The minority administration - composed of Christian Democrats, Liberals, and Social Democrats - had been formed last August following early elec-

Crisis *(contd.)*

tions in June and the dissolution of Parliament in April. From the very beginning, it was regarded as merely a transitional government, and its demise had been expected for a long time. The end came when the Socialists and Republicans withdrew their token support.

Both domestic and international considerations are forcing President Sandro Pertini to seek a quick solution to the crisis. At home, the economic problems are mounting again, and the public is shocked by a wave of terrorism aimed particularly at the judiciary. Also, regional elections are scheduled for May or June. Internationally, Italy is bearing special responsibilities at this time in its position as president of the EEC Council of Ministers for the first half of this year. (The situation in Rome was the reason given for the postponement of the EEC summit meeting originally scheduled for March 31 and April 1 in Brussels.) Under these circumstances, Pertini has decided to turn again to Cossiga to attempt the formation of a successor cabinet.

Speculation as to possible solutions of the crisis centers around the role of the Socialists, whose rightist factions are pushing for a coalition with the Christian Democrats and whose left wing favors a "national unity" government which would include the Communists. In any case, Socialist leader Bettino Craxi has been given a mandate by his party to negotiate with the Christian Democrats.

In other news, the Italian industrial federation Confindustria has finally designated a successor to Guido Carli, the former central bank governor, as president of the organization. The new man, Vittorio Merloni, 47, will be presented for election to the federation's general assembly in May. Observers said Merloni is expected to institute something of a new era at the Confindustria because of his background in small and medium-sized industry, which is considered the most dynamic force of the Italian economy, and because of his origin in the country's central plain. By contrast, his two immediate predecessors, Carli and Fiat's Gianni Agnelli, represented the big industrial elite of the north.

Names Revealed of Suspected Tax Evaders

Finance Minister Franco Reviglio has launched another offensive against tax evasion, as a follow-up to his successful attack on evasion of value-added tax in the Italian catering trade. His Ministry has published a 1,000-page "Red Book" with the names of 33,000 individuals suspected of having dodged taxes totaling 172 billion lire. The names have been gleaned from the list of 65,000 individuals investigated over the last five years by the Italian fiscal police, the Guardia di Finanza.

Tax Evaders *(contd.)*

Figures published in the Red Book indicate that the government's tax revenue would be at least 2.5 times larger if Italy's taxpayers did not habitually conceal, on average, approximately three-quarters of their income from the authorities. Ninety percent of evasion originates among private businessmen, the report says. The worst offenders are to be found in the oil trade, where evasion approaches the level of 95% of actual income. Financial operators of various kinds declare, on average, only 20% of their taxable income, and wholesalers only 33%, the report notes.

Commentators said that Reviglio's aims are to create a psychological barrier against a further spreading of evasion. His activities have been described as being unconstitutional, on the grounds that only a few of the suspects whose names have been published have actually been prosecuted. Reviglio, for his part, appears to be encouraged by the recent introduction of prison sentences for tax evasion.

Belgium: 2% Spending Cut; Higher Interest Rates

The Belgian government is pushing through a 2.2% across-the-board cut in this year's public spending, and the National Bank has raised interest rates by 1.5-2.0%. The discount rate now stands at 14%. The "B" discount rate, which covers two-thirds of discounted bills, and the Lombard rate have been raised to 15%. The "special" Lombard rate, which covers central bank funds to the banks above the Lombard quota, has been set at 18%. Premier Wilfried Martens also announced a five-year program for energy savings, which he said would save up to $300 million a year on the balance of payments.

The budget cuts, affecting everything except debt servicing and unemployment benefits, will be continued into next year's budget. The deficit on this year's BF 1,100-billion budget should now be lower than the previously planned BF 82 billion, which was itself a reduction from last year's BF 91 billion. Government planners are aiming for a BF 50-billion budget deficit next year. Nevertheless, the Planning Bureau warns that, on the assumption of 7% inflation and a 3% annual growth rate, debt servicing in 1985 will reach 12% of GNP, and state indebtedness will eat up 59% of GNP, compared with 50% in 1978.

The indicator that causes the greatest economic worries in Belgium, as almost everywhere, is the growing deficit on the current account of the payments balance, which rose to BF 84 billion in 1979 from BF 28 billion in 1978, mainly because of higher oil prices. The national oil bill reached BF 150 billion in 1979 (compared with a mere BF 40 billion in 1973), and Finance Minister Geens warns that, with a potential oil bill this year of BF 215 billion, the current-account deficit could soon look even worse.

Sweden: Majority Vote for Continued A-Power Usage

The nuclear energy referendum in Sweden on March 24 has brought a clear majority of 58.2% for the proponents of A-power. Of the total votes cast, 18.7% were in support of Proposition 1, which stood unequivocally for continued and expanded reliance on nuclear energy and was backed by the Conservatives. Also in support, though on a more modified basis, was Proposition 2, which called for the doubling of the existing reactor program to 12 reactor units and reliance on nuclear power for at least 25 years. This proposition was sponsored by the Social Democrats, Liberals, and trade unions and gained 39.3% of the vote. The opposing bloc, represented mainly by the governing Center Party and the Communists, was able to attract only 38.6% of the vote for its Proposition 3, which called for the shutdown of Sweden's six existing reactors within 10 years.

Although the referendum was merely of a recommending nature, it nevertheless is regarded as binding by all parliamentary parties. The outcome should pose particular political problems for the coalition of Prime Minister Thorbjörn Fälldin, himself one of the leading spokesmen of the anti-nuclear factions.

Switzerland: More Curbs Lifted on Alien Deposits

In their continuing effort to defend the strength of the franc against the dollar, the Swiss government and National Bank last month announced a further easing of restrictions on foreign Swiss-franc deposits. As of March 11, time deposits with a maturity of at least three months may again earn interest. Thus, only sight deposits and short-term time deposits of less than three months remain subject to the interest ban, which was imposed in the mid-'70s to forestall a massive inflow of foreign funds into Switzerland. In addition, the National Bank has removed its restrictions on forward sales of Swiss francs to nonresidents.

Subsequent to the announcement, the National Bank held discussions with the commercial banks, urging them to accept only time deposits of more than SF 100,000 and to offer somewhat lower interest rates for time deposits of less than SF 250,000. In mid-March, the banks paid rates of 5.0-5.5% for such deposits; above that level, up to 6.25% was paid, depending on maturity.

The National Bank wants to contain hectic activity in time deposits, thereby indirectly slowing down the capital outflow. Over the past few weeks many Swiss investors have stopped subscribing to domestic bond issues and instead turned to the U.S. dollar or other currencies to earn more interest. Banks have reported that home owners even take out second mortgages of up to 5% to obtain funds for investment in time deposits.

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EUROMARKET NEWS

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Community: EC Court Again Backs Equal-Pay Rule for Women

The European Court of Justice has reaffirmed a woman's right to equal pay if she performs the same tasks as a male colleague. Answering questions submitted by Britain's Court of Appeal, the EC tribunal said a woman is entitled to the same compensation as the man who previously held her job because the equal-pay principle contained in Article 119 of the EEC Treaty is not merely limited to situations in which women and men work simultaneously for the same employer (judgment of March 27, 1980; Case No. 129/79).

Wendy Smith, a former employee of Macarthys Pharmaceuticals Ltd., brought suit in lower labor court, demanding that she should have received the same pay as the man who had held the job before her. She lost in the first instance, but on appeal the Employment Appeal Tribunal sided with her, holding that a strict interpretation of the Equal Pay Act would not only produce odd results but would also be contrary to the EEC's equal-pay principle. Macarthys took the case to the Court of Appeal, which, before making its ruling, asked the EC Court whether the principle of equal pay for equal work set forth in Treaty Article 119 and Article 1 of the EEC Directive 117/75 is restricted to simultaneous employment of men and women or whether it applies also to those employed at different times. The Court of Appeal was of the opinion that the Equal Pay Act applies exclusively to simultaneous employment.

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Equal Pay
(contd.)

The EC Court held that Treaty Article 119(1) requires the Member States to assure and maintain application of the principle of equal pay for men and women doing the same work. There was no need on the Community's or the Member States' part to enact any further legislation on the matter, the Court said; according to the *Defrenne* judgment, Article 119(1) is directly applicable, and all forms of discrimination, direct or indirect, are barred *(Common Market Reports, Pars. 3942.15, 8346).*

The Court saw no need to answer the question concerning the interpretation of Article 1 of the Directive 117/75, stating that the British court could settle the dispute on the basis and interpretation of Treaty Article 119 alone. In its observations sent to the EC tribunal, the British government again argued, just as it and other governments did in the Defrenne case, that Article 1 of Directive 117/75, which extended the Treaty's equal-pay-for-equal-work concept to bar all other forms of discrimination based on sex, is not directly applicable and requires legislative action by the Member States in order to be put into effect.

There are two more cases pending before the EC Court involving alleged discrimination of women in employment. A Luxembourg woman feels discriminated by a collective bargaining agreement under which male employees receive a household allowance, but a woman receives it only if her husband no longer provides for the family. A case of indirect discrimination was referred by a British court and involves a pay differential for male full-time and female part-time employees.

Prevention of Industrial Accidents

The Economic and Social Committee has, with some reservations, endorsed the European Commission's draft directive to prevent major accidents caused by industrial activities involving toxic, explosive or highly flammable substances. Proposed last July, the draft directive would require the Member States to adopt legislation or bring existing rules into line with the Community measure; thereafter, management of companies producing any of the substances described in the law would have to draw up a safety report and submit it to national authorities. Management would also have to inform workers and the public about the dangers.

The proposal was prompted by the 1976 Seveso (Italy) disaster, when the accidental escape of a toxic gas from a chemical plant caused several deaths and numerous permanent injuries and forced the authorities to evacuate the town. The Community action is designed not only to prevent similar disasters but also to avoid distortion of competition among national industries, since several Member States have planned legislation along the same lines (Official Journal No. C 212, Aug. 24, 1979, page 4).

Prevention *(contd.)*

Manufacturers producing certain dangerous substances in excess of the quantities specified in Annex II to the draft directive would be required to furnish the authorities with a detailed safety report concerning the substances and facilities and where in the production line the risk of a major accident was high. The report would have to pinpoint the hazards for man and environment and also describe the safety measures taken or available to minimize them. If an accident did happen, management would have to report it immediately to the authorities. The information supplied by management could be used only for environmental purposes. Although the ESC realizes that the information must be as complete as possible, it nevertheless sees the need to protect companies' legitimate interests, especially business secrets such as production processes.

In its opinion the ESC criticizes the fact that the draft directive is concerned with industrial activities only; it wants an expansion of the measure to include other fields such as laboratories and the transport sector. The committee regrets that the most important terms, such as "industrial activity" and "dangerous substances," have not been defined more clearly. In the committee's view, the proposed list of substances is incomplete and the toxicity criteria are inadequate and impracticable.

Whether the working party, which has been discussing the proposal for several months, will follow the ESC's recommendations is uncertain. At present there are some differences of opinion about the scope of the proposal. The Commission, backed by most of the States, contends that any new substance coming on the market and meeting the criteria set forth in the measure would be covered even if the substance is not listed in the annex. Germany, with some support from France, would like a more formalistic approach and thinks the Council should adopt a subsequent directive to add the substance to the annex's list.

In Brief...

The Commission has completed an internal paper comparing the goals projected in the Community's 1973 and 1977 environmental action programs with the results achieved so far. The drafters note the progress made in controlling water pollution, but they are not as satisfied with respect to air pollution control. It was pointed out, however, that the Council is not the only one to have fallen behind: it took the Commission seven years to prepare its proposal on environmental impact assessment. This measure, expected to be submitted later this month, would require management of a new plant to submit to the public authorities, along with its application for an operating license, a study assessing the impact of the plant's activities on the environment + + The Court of Justice has declined to issue two temporary injunctions against France in the French-British lamb war;

In Brief *(contd.)*

the EC tribunal says the injunctions are not necessary within the meaning of Treaty Article 186. The Commission had applied for the injunctions to make France comply with the Court's Sept. 25, 1979, judgment declaring the ban on lamb and mutton imports illegal and also to enjoin Paris to lift all import restrictions at once. France was also supposed to remove the tax on U.K. lamb and mutton that was introduced after France lifted the ban on Feb. 26. The Court said that the French government's duty to lift all restrictions was clearly spelled out in the September judgment (Case Nos. 24/80 R & 97/80 R; March 28, 1980).

Britain: Current-Cost Accounting Standard Set

The Accounting Standards Committee, comprised of the various accounting bodies in the U.K. and Ireland, has now arrived at a standard on current-cost accounting (Statement of Standard Accounting Practice 16), which is very much in line with the ASC's Exposure Draft 24 published last year and which ends ten years of heated debate among accountants. As a result, the accountancy profession in the U.K. and Ireland is the first to bring into operation a full standard on current-cost accounting, which will apply to most listed and unlisted large companies. ASC vice-chairman Douglas Mordeth emphasized that this system did not, of itself, alter the cash flow of a business, but it provided for management "a means of setting aside funds required to maintain the physical assets representing the operating capability of a business in an organized way, and which can be understood by the user in the annual accounts."

The standard will apply to all public companies and to those which qualify as large companies under the EEC fourth company law directive *(Common Market Reports, Par. 1391)*. Certain companies, however, will be specifically exempt, such as wholly owned subsidiaries, or companies whose performance is measured by total value growth, authorized insurers, property and other investment companies, and unit and investment trusts. It is estimated that the standard will be mandatory for about 5,000 to 6,000 enterprises in the U.K. and Ireland, or less than 1% of the total number of registered companies in these two countries. No changes will be made to the standard for a period of three years to ensure reasonable stability, and the standard will operate retrospectively for accounting periods beginning on Jan. 1, 1980.

Current-cost accounts will comprise a current-cost profit and loss account, a balance sheet, and notes. To comply with the standard, companies may present historical-cost accounts as the main accounts, with supplementary current-cost accounts prominently displayed (the majority are likely to do this). Alternatively, current-cost accounts may be presented as the only accounts, with sufficient his-

Accounting *(contd.)*

torical-cost information to ascertain the profit under existing conventions.

Current-cost profit will be shown in two stages. "Current-cost operating profit," independent of the financing structure of a company, is arrived at after adjustments in respect of depreciation, cost of sales, and monetary working capital. Secondly, there will be the "current-cost profit attributable to shareholders," reached after making a gearing adjustment; it reflects the extent to which shareholders have not borne the full brunt of the operating profit adjustments because part of the operating assets is financed by borrowings rather than equity.

A leading firm of stockbrokers and analysts, Phillips & Drew, has estimated that average profits throughout British industry will now decrease by some 36% as against the traditional calculations and that profits are likely to be more volatile. Also anticipated is a downward effect on dividends, with only a probable 5% average increase this year, since nearly 50% of companies may be paying dividends not covered by current-cost accounting earnings.

It is doubtful, however, whether the new accounting system will be acceptable to the Inland Revenue as a basis for company taxation, since the new standard applies to relatively few companies. (Discussions are now in progress.) It is also thought unlikely that there will be any significant reduction in corporation tax, despite the government's Budget promise for a review in light of Standard 16.

Germany: Annual Accounts Draft Reflects EEC Law

Government officials in Bonn have drafted a preliminary bill on corporate accounting that would bring German accounting rules up to the standards of the EEC's Fourth Council Directive on annual accounts of certain types of companies. The directive was adopted by the Council on July 25, 1978, and the Member States have to comply by July 25, 1980 *(Common Market Reports, Par. 1391)*. Even if the government were to present the bill to Parliament in the next few weeks, the lawmakers would not have enough time to consider it before the deadline expires. However, most of the other Member States are in the same situation; they have been delaying compliance because they want to await Council action on the pending Seventh Draft Directive concerning group accounts *(Common Market Reports, Par. 1407)*. It is the general feeling that the two directives could be reflected in one legislative act instead of two; business organizations in several States also favor this approach.

The Fourth Council Directive contains detailed rules on the content and publishing of a company's balance sheet, profit and loss statement, and annual report, and it also describes the methods that management must use in evaluat-

Accounts
(contd.)

ing corporate assets. A change in the German law would affect medium-sized limited liability companies (GmbHs) the most, since the current law requires only stock corporations and GmbHs with annual sales over DM 2 billion to prepare and publish financial statements.

Government officials estimate that some 90,000 of the country's 160,000 limited liability companies would be covered by the changed law; this would mean considerably more time, effort, and cost for them. Small GmbHs with an annual balance sheet total of up to DM 2.85 million, annual sales of up to DM 5.7 million, and/or an average of 50 employees would be allowed to draw up abridged annual accounts if they meet two of these three criteria.

In line with the Fourth Directive, the bill would make important changes in the valuation rules. Fixed assets would have to be valued at purchase price or production cost; the currently widely used net-value approach (purchase price minus depreciation) would no longer be permissible. There would be only a few minor amendments to the accounting rules applicable to GmbHs with annual sales over DM 2 billion.

The amendments would apply the law for the first time to the GmbH & Co. KG, a widely used limited partnership in which a GmbH is the general partner with unlimited liability to creditors and an individual is the partner whose liability is limited. This company type is not covered by the Fourth Directive and is not even permitted as a form of doing business in several Member States. Government officials justify the inclusion of this type of company in the German law by saying that creditors of a GmbH & Co. KG should not be deprived of the protection that creditors of a limited liability company will have after enactment of the bill. They stress that the inclusion is also justified by the fact that both forms of doing business can be used interchangeably, which is actually done in practice.

Italy:
New Government
Installed;
OECD Survey

The latest Italian government crisis was ended just before Easter after only two weeks with the formal installation of a center-left coalition cabinet, which includes 15 Christian Democrats, nine Socialists, and three Republicans. The new administration is again headed by Francesco Cossiga, who succeeded himself as prime minister. A notable addition to the cabinet is Emilio Colombo, an ex-premier and the president of the European Parliament until last July; Colombo has taken over the foreign affairs ministry. The new Ministry for European Affairs was given to Vicenzo Scotti, the outgoing labor minister.

The new government holds 338 seats out of 630 in the Chamber of Deputies, and a vote of confidence on April 14

Government *(contd.)*

was not in doubt. The relatively speedy formation of the cabinet was made possible by the readiness of the Socialists to join the government, even though it was they who had toppled Cossiga's first administration on grounds that it was too weak to solve the country's multifold problems.

In other news, the latest OECD survey on Italy warns of the prospect of that country's economic recovery being interrupted in 1980 for the third time in six years. Growth is expected to come almost to a standstill by late summer, resulting in an average rate of only 1.7% for the year as a whole, and will suffer especially from slackening activity in major export markets such as West Germany. The trade deficit in 1980 is expected to reach $5 billion, compared with $1 billion last year. Real-term wages may increase by 1%, but taxation will probably take a larger proportion of incomes. The OECD foresees difficulties in reducing inflation from its current high level of over 20%, although the government's policy of maintaining the value of the lira in the European Monetary System may result in some relief late in the year.

The OECD sees short-term prospects of continued tightness in monetary policy, accompanied by a more relaxed fiscal approach aimed at maintaining economic activity. However, the high level of interest rates will particularly hit private-sector investment, despite full order books at the end of 1979.

Spain: Madrid Seeks Transition Period for VAT

A tax reform initiated by the Spanish government a few years ago will be carried a major step further with the eventual introduction of value-added tax *(IVA - impuesto sobre el valor anadido)*, which is to replace the existing cumulative turnover tax *(Doing Business in Europe, Par. 28,381)*. The switch to VAT is one of the conditions for Spain's accession to the European Communities on Jan. 1, 1983, but its timing is still the subject of intensive discussions between Madrid and Brussels.

The Spanish government argues that the introduction of VAT on Jan. 1, 1983, would overextend the capabilities especially of the country's small and medium-sized businesses, most of which are lacking the necessary bookkeeping and accounting facilities. Although the European Commission last December informed Madrid that it would have to adhere to the 1983 deadline for introducing VAT, the Spanish government is still hoping to negotiate a longer transition period. Nevertheless, the tax authorities are now planning a major campaign to educate the business community about the forthcoming introduction of VAT and the corresponding requirements facing all companies. At the same time, they are also inaugurating training sessions for their own staff.

EURO COMPANY SCENE

Alusuisse/ Conalco/ Phelps Dodge

Schweizerische Aluminium AG (Alusuisse), which already holds a 60% stake in Consolidated Aluminum Corp. (Conalco), of St. Louis, Mo., will not for the time being exercise its option to purchase the remaining 40%, now held by Phelps Dodge. Alusuisse president E.R. Meyer said the asking price of $125 million was too high considering Conalco's "measly earnings" of $4 million last year, on a turnover of some $825 million. Meyer did not rule out a resumption of the talks in about half a year.

Freudenberg/ DBA-Bendix

Germany's Freudenberg group has taken over from DBA SA, a Paris-based subsidiary of the United States' Bendix Corp., two plants supplying the French automobile industry. The plants, at Le Mans and Montrond les Bains/Loire, employ a total of 800 and turn out various technical products on a rubber or plastic basis, such as distributor caps and brake components. They have a total turnover of more than FF 100 million annually.

Thomson-Brandt/ GTE/ Saba/ Videon

The French electrical engineering group Thomson-Brandt SA has made a takeover bid for Germany's Saba-Werke GmbH, a home electronics producer owned by General Telephone & Electronics (GTE), of Stamford, Conn. The offered price was not disclosed. In the 1978 business year Saba reported sales of DM 829 million; it employs 5,100. As part of its current expansion drive in the European television sector, Thomson also is seeking to purchase another GTE subsidiary, Videon, a French manufacturer of electronic components. If carried off, the acquisitions would make Thomson the second-largest TV producer in Europe after Holland's Philips, with a market share of about 25%.

Deutsche Unionbank/ Bankers Trust

As of April 1, Deutsche Unionbank GmbH, a 100% German subsidiary of Bankers Trust Co., New York, has been renamed Bankers Trust GmbH, Frankfurt.

Chase Manhattan

According to reports from Portugal, Chase Manhattan Bank is interested in establishing a branch in Lisbon, provided the government's draft legislation for a liberalization of the domestic banking system will gain approval.

Banco Central/ Americas Bank

Spain's second-largest commercial bank, Banco Central, has acquired United Americas Bank of New York for $2 million.

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Community: New Impetus to Company Law Coordination

The European Parliament's legal committee is putting the finishing touches to a draft report and resolution on the European Commission's Green Paper on employee representation and company structure. The document contains informal amendments to the Fifth Company Law Coordination draft directive on the structure of stock corporations and labor's voice in management. EP officials say the committee's majority favors a flexible approach to the two-board system and labor representation on supervisory boards, and the conservative majority of the European Parliament will also back this line of thinking when the full house votes on the report and the resolution. Since the Economic and Social Committee, too, supports a flexible system, Brussels observers generally concur that the final version of the Fifth Draft Directive will differ substantially from the Commission's original proposal submitted in 1972 *(Common Market Reports, Par. 1401)*.

In its original version, the measure was virtually a copy of the German system. It would have required stock corporations with more than 500 employees to have a managing board and a supervisory board, and labor representatives would have occupied one-third of the seats on the latter *(Doing Business in Europe, Pars. 23,222, 23,223)*. Opposition to the proposed measure came not only from sev-

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Company Law *(contd.)*

eral Member States, especially the U.K., but also from the previous European Parliament. Most of the criticism was directed against the mandatory two-board system and the usual 18-month period available to the Member States for implementation - far too short a time for countries to break with their long tradition of company law based on the one-board system. Thus, the Commission reconsidered the matter and presented its Green Paper in late 1975 in order to revive the debate that had bogged down over the issues of the supervisory board and employee representation. In the Paper the Commission outlined the areas where it was ready to compromise in an amended draft directive.

Neither the EP's majority nor the ESC argues with the Commission's premise that there is a trend in the Member States' legislation to give employees more say in management, although the company laws of several states do not accord labor a voice in management corresponding to its role as a powerful element in politics and economics. Also, substantial discrepancies in national laws could interfere with the normal flow of investments and resources.

However, some ask why labor's say in management could be achieved only via representation on the supervisory board. Both the majority of the EP's legal committee and the ESC want the future directive to leave the Member States an option: labor's say could come to bear either through representation on supervisory boards or in a separate body. The big difference would be that labor representatives on supervisory boards would be involved in corporate decision-making, since major policy decisions planned by the managing board must be approved by the supervisory board, while labor members of the special body would only be consulted.

Although the Commission agrees with the optional approach (it even suggested it in the Green Paper), it nevertheless adheres to its original idea of labor representation on supervisory boards in the long run. The EC executive wants to have the option for a special body in place of a supervisory board only for a transitional period; just how long this period is to last is expected to be a major issue for the Council's working group.

EEC-Belgrade Trade Pact Deemed Unique

The EEC-Yugoslav cooperation agreement signed on April 2 is important and unique in several ways. Its significance lies not only in the scope of cooperation and promotion of trade but also in the political sphere because of Yugoslavia's standing as an independent force among the world's nonaligned countries. It is unique because of its comprehensive nature and the fact that it will apply for an unlimited period of time. *(Common Market Reports, Par. 10,207.)*

No other agreement concluded by the EEC with a third

Trade Pact *(contd.)*

country in the areas of economic and technical cooperation is so broadly contructed; the pact covers industry, energy, science and technology, agriculture, tourism, transport, the environment, and fisheries. Cooperation in the industrial field will bring Community help to Yugoslavia in developing and diversifying those industries that are of interest to both partners. Over a five-year period the European Investment Bank may make 200 million EUA available to help finance projects designed to develop Yugoslavia's economy. The small, yet effective Business Cooperation Center, a branch of the EC executive, will offer its services to find business partners for Yugoslav firms.

In the commercial sector the agreement is to promote mutual trade by improving the access of Yugoslav products to the Common Market. Yugoslavia's trade with the EEC needs a big boost if Belgrade really wants to narrow its trade deficit with the Community; in 1979 this shortfall amounted to roughly $2.5 billion. Although the agreement does not expressly say so, the EEC extends Belgrade preferential treatment of most industrial products without demanding reciprocal concessions for Common Market products. The Yugoslav government agreed to the most-favored-nation principle, which means that any favorable treatment extended to its products would have to be given likewise to products from the Common Market. Other than that, Belgrade would retain the right to raise duties on imported EEC products if this were necessary to protect a new industry.

Twenty-nine industrial products from Yugoslavia - including certain fertilizers, leather goods, furniture, generators, aluminum, copper, zinc, steel products, and textiles - would not benefit from duty-free access to the Common Market, nor would a number of agricultural commodities. Still, the previous quotas would be raised, and tariffs and levies would be cut. In the agricultural sector, the concessions are more modest. However, for the first time (and against considerable opposition from Italy and France) Yugoslavia has been granted an annual 1,500-ton quota for tobacco, and Yugoslav exporters will be able to sell more wine and slivovitz in the Common Market.

The cooperation agreement will enter into force following completion of the ratification procedures by the parliaments of Yugoslavia and the EEC Member States.

Germany: Supreme Labor Court Ponders Lockout Issue

The six cases before the German Supreme Labor Court over the lockout issue have not produced major new arguments, pro or con. The unions claimed that employers use the lockout to discourage employees from exercising their right to strike; they also argued that in strikes affecting individual companies, the locking out of not only the striking employees but also the nonstrikers of an entire branch

Lockouts *(contd.)*

of industry was illegal and unreasonable, being disproportionate to the objectives pursued. What the unions are striving for is a ban on the lockout.

The employers maintained that the unions' practices of selective strikes can threaten the existence of an entire industry because competitors who take advantage of the strike situation make inroads on the market that usually cannot be recovered after the strike. Their major argument was that a lockout actually helps preserve jobs because it is designed to shorten a labor conflict and pave the way for an early settlement. A lockout ban would deprive employers of the only weapon they have to fight strikes. They would have no way to influence the outcome of the conflict and would always have to give in to the unions' demands.

The high court was hearing arguments in six out of about 200 appeals brought by employees who had lost in their appeals before appellate labor courts. These cases were brought by individuals employed by companies in Baden-Württemberg's metal working and Hesse's printing industries after their employers responded to strike action against a few businesses by locking out all employees in both industries. Most labor courts upheld the employers' right to lock out and so did Baden-Württemberg's Appellate Labor Court. (The Frankfurt Appellate Labor Court decided against the printing company because the Hessian state constitution outlaws lockouts.) The rulings by the lower labor courts and the Stuttgart Appellate Labor Court were in line with case law developed by the Supreme Labor Court. Although the federal constitution does not expressly grant employers the right to lock out employees, the Supreme Labor Court has developed in its case law a doctrine that allows use of the lockout as a means of last resort to advance employers' interests, just as workers may go on strike for higher pay and improved working conditions *(Doing Business in Europe, Par. 23,421)*.

Since there is no likelihood that there will be legislation on the lockout in the foreseeable future (a fact that prompted the chief justice to criticize both the government and Parliament), the Supreme Court must rule whether the lockout was reasonable and justified to the extent that employers responded to individual strikes with an overall lockout. The Court must also decide whether to retain its doctrine alleged to be prejudicial to nonorganized and nonstriking employees who, in contrast to their union-affiliated colleagues, do not receive strike benefits when they are locked out. In 1971 the Court acknowledged the prejudicial element but nevertheless thought these employees must share the risk as well as the benefits of a strike. The ruling is expected in June.

Britain: Government Opposed to Import Curbs

In a letter to the Trades Union Congress, U.K. Secretary of State John Nott has clearly indicated that the government is generally opposed to stiffer import controls and more protection for certain British industries. Such proposals have been increasingly voiced by the Opposition, and last month the TUC economic committee advocated the introduction of penetration limits and agreed ceilings on import levels in sectors deemed particularly vulnerable to foreign competitors. The committee noted the size of the U.K. trade deficit and that imports of manufactured goods last year had gone up by 16%, which was ten times the growth rate in manufactured exports. Some controls were necessary to reverse this trend, the committee said. In addition, selective government assistance should be given to industry for improvements to be made to combat such competition. The automotive industry was seen as the most needy beneficiary of such measures.

In reference to the latter point, Nott said that productivity in the motor industry had long been notoriously low, and he stressed that poor performance in this sector significantly affected the overall trade figures. If motor vehicles were excluded from those figures, the export-import ratio last year deteriorated by only 1% from its 1978 level. Import controls would not bring about the improvement in performance required but would most likely provoke countermeasures against some important British overseas vehicle and component business. (Exports of components in '79 amounted to £1.7 billion.)

Nott emphasized that "import controls would treat the symptom rather than the disease..." Widespread controls would be bound to create economic distortions and bottlenecks, which would reduce efficiency and would "deprive British manufacturers of supplies of improved equipment and materials, on which success in the ... domestic market might depend." Import controls would increase industrial costs and the value of sterling (making British goods even less competitive in world markets) and divert exports to home markets. A third of GNP was in exports, on which millions of jobs depended, and therefore nothing should be done that might prove prejudicial.

Nott did not, however, totally exclude controls in "limited and particularly difficult areas," such as textiles, where he noted that imports of man-made U.S. fibers had been curbed since they were artificially cheap because of low U.S. energy costs. He was in favor of vigorous action throughout the EEC against dumped or subsidized imports, but he believed that the solution to the problem lies in persuading other countries to bring down the barriers rather than in erecting new ones. Also, Britain's share of world trade had been constant over the past few years at roughly 9%: "We are therefore particularly vulner-

Import Curbs *(contd.)*

able to retaliation and have to be careful about setting an example in flouting trade obligations."

Denmark: Cool Reaction to New Budget Savings Plan

Social Democratic Prime Minister Anker Jörgensen has put an Easter package of new budget savings proposals before the Danish parliament. Initial reactions have been cool, and trade unions as well as the Conservative parliamentary opposition have complained of the paucity of effective measures to stimulate productivity growth and exports. General opinion has it, moreover, that it will take months for Jörgensen to put together the necessary ad hoc parliamentary majority backing for the measures, which in the process are likely to be watered down considerably.

Jörgensen's "negotiable" proposals center on savings of over 5.8 billion kroner in government spending and a 5-billion-kroner increase in revenues. The savings are to come out of the budget of the Social Affairs Ministry (1.04 billion kroner), the Labor Ministry (1.23 billion) and the local authorities (3.6 billion). In accustomed fashion, higher revenues are to be collected through increased taxes and tariffs. A proposed new real estate tax of 3/1000th would bring in 2.2 billion kroner, while the rest would come through an increase in the tax on gasoline by 0.10 to 1.92 kroner per liter, similar increases in tax on heating oil, and an increase in the electricity tariff of 4.5 öre to 12.05 öre/KWh.

Denmark's payments deficit, after reaching 15 billion kroner in 1979, is expected to rise to 16.5 billion this year, and the government fears that without the new measures it would be as high as 25 billion by 1983. The savings proposals have been presented in the framework of an optimistic plan to cut the payments deficit to 8 billion kroner by 1984 and to zero by 1990. However, this framework plan has inspired little confidence, since it would still allow Denmark's foreign debt to rise from the present level of 80 billion kroner to 134 billion in 1985. Real-term wages would fall by 11-13% between now and 1985, and unemployment would rise from last year's 159,000 to 224,000 in 1982. The government expects a 0.8% fall in GNP this year, followed by a 1% increase next year.

As a gesture in the direction of the Conservative opposition, Jörgensen has proposed some increases in depreciation allowances to encourage productive investment. More controversial is a plan, to be studied by a special commission, to use a system of tax relief to encourage pension funds and insurance companies to invest their money in industry. Another gesture, this time in the direction of the trade unions, is a plan to invest over a three-year period 4.5 billion kroner of public funds in retraining, labor mobility, and related measures to relieve unemployment.

Belgium: Regionalization Dispute Forces Martens to Quit

A prolonged round of political horse-trading is expected in Belgium following the April 9 resignation of Prime Minister Wilfried Martens after precisely 12 months in office. Martens will continue for the time being as the head of a caretaker cabinet, while in the meantime the outgoing economics minister, Willy Claes, a Flemish Socialist, has been given the job of "informateur" to test the ground for a new government coalition. Virtually the only thing that all parties agree on at present is the inadvisability of holding new elections at this time.

Martens stepped down as a result of a revolt by eight members of his own Flemish Social Christian Party on the issue of his compromise proposal to settle the disagreements between the Flemish part of the Belgian population and the French-speaking Walloons. This is the intractible issue that has felled every government for several years. The eight senators, backed by ex-premier Leo Tindemans, complained about the deal Martens has made with his Socialist coalition partners, calling it a "scandal." The Socialists, who largely have a French-speaking base, had tied their support of the government's latest austerity proposals to more political concessions for that part of the population in the Brussels metropolitan area.

[Spa]in: [Ba]nk Deposit Guarantee Fund; OECD Survey

A strengthening of the Spanish banking system's deposit guarantee fund, which is modeled on the U.S. system, has finally been decided on after months of consideration. Central bank governor José Ramon Rendueles insisted on a quick agreement to meet the contingency of several banks which had reported severe losses for 1979. Spain's 108 commercial and industrial banks have until June to make last year's accounts public.

The deposit guarantee fund was set up in 1977, funded on a once-off basis by the banks' contributions. It guaranteed deposits up to 500 million pesetas each. Under the new arrangements, the guarantee will be raised to 750 million pesetas and the fund enlarged by an annual quota contribution from the banks corresponding to 1/1000th of each bank's deposit volume. The Bank of Spain will match these contributions. The total funding will amount to some 12 billion pesetas annually.

The guarantee fund will also be available to aid banks in trouble or to assist rescue takeovers of ailing banks. For these purposes the expanded fund is considered preferable to the Corporacion Bancaria, which was set up in 1978 to absorb ailing banks and then sell them again after financially reorganizing them. So far this "bank hospital" has had little success in divesting itself of its convalescents.

Guarantee Fund *(contd.)*

Meanwhile, it was reported that the influx of foreign banks into Spain is continuing, with some 30 branches expected to operate there by next year. Rendueles has welcomed the presence of the foreign banks because of the "new impulses they give to the financial market." As previously reported, Continental Illinois National Bank of Chicago is the latest U.S. bank to set up a branch in Madrid.

In other news, the OECD warns that Spain "can ill afford a protracted period of stagflation," although that appears to be exactly what the country is suffering. Last year GNP rose by only 1.75% but inflation by 15.75%, and these rates are expected by the OECD to grow this year at 1.75% (again) and 17%, respectively. The OECD recommendations, contained in that organization's latest survey on Spain, are for a cautious policy of expanded public investment, emphasizing the energy plan already published.

Portugal: Council Rejects Private Bank, Insurer Plan

The Revolutionary Council on April 10 vetoed authorization legislation that was to have paved the way for the establishment of private banks, insurers, and other businesses in Portugal. The National Assembly last month had authorized the Sa Carneiro government to prepare the necessary legislation; only the Communists and Socialists had voted against this authorization.

The Revolutionary Council, the military watchdog body headed by President Antonio Ramalho Eanes, based its rejection on the argument that the authorization legislation passed by the Assembly was unconstitutional. A further explanation was not immediately given, and many observers believed that the decision was motivated by political rather than purely legal considerations. The Conservative government maintains that the law is indeed constitutional and that its own efforts to redraw the lines between the public and private sectors are merely a change of course from that followed by the previous Socialist government.

Only recently, in an interview, Premier Francesco Sa Carneiro had declared that the admission of new private financial institutions would help contain the power of the state monopolies and thus return the economy to a more dynamic course. The Council's veto, commentators said, will now enable Sa Carneiro to charge that the strict interpretation of the constitution (which provides for both "democracy" and "a transition to socialism") prevents the democratically elected government from implementing its policies.

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Community: National Ban on TV Commercials Held Legal

The European Court of Justice has ruled that a Member State's ban on TV commercials does not violate the EEC Treaty so long as the ban is imposed for reasons of public policy and provided it applies equally to domestic and foreign broadcasts. In the absence of Community legislation harmonizing national rules on the matter, existing provisions (such as the outright ban in Belgium, some restrictions in France, nongovernment controls in Germany) do not infringe on the freedom to provide services established in Treaty Articles 59 and 60, according to the Court. However, these controls must not discriminate against an individual or company on the basis of nationality or residence (judgment of March 18, 1980; Case No. 52/79). The Court's *Binsbergen* and *Sacchi* rulings breathed new life into the freedom to provide services provision, and there had been hope that the Community tribunal would declare the ban on commercials incompatible with EEC law.

An executive of Belgium's Coditel cable TV company, which had transmitted German television programs without eliminating the commercials, was brought to trial for violating the 1966 Belgian decree barring both radio and TV commercials. The Belgian court postponed sentencing and asked the EC tribunal whether Treaty Articles 59 and 60 and

This issue is in two parts. This is Part I.

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Commercials *(contd.)*

the *Binsbergen* and *Sacchi* judgments *(Common Market Reports, Pars. 8282, 8267)* must be interpreted to mean that cable TV companies could be enjoined from broadcasting foreign programs with TV commercials.

Since the EC Court has dispersed the doubts about the ban's incompatibility with EEC law, it is now for the Belgian court to decide the case; there is still some question about the public policy aspect. No one has ever been brought to trial for violating the ban. Belgian TV stations even find ways to inject commercials into their programs in a veiled form, but the government has been reluctant to enforce the ban.

Toy Safety Draft Sent to Council

The European Commission has proposed to the Council of Ministers a directive that would commit the Member States to raising safety standards of toys and at the same time removing barriers to intra-Community trade, which still prevail in the various national standards on toys. Since the standards vary so greatly, consumers have no way of telling how safe imported toys really are.

The general safety objectives pursued with the proposal concern a toy's physical, mechanical, chemical and electrical properties, its flammability, explosion risks, hygienic aspects, and radioactivity potential. Since experience has shown that a toy's physical and mechanical characteristics and its flammability represent the biggest risk of injury, the proposal would set forth detailed standards and would also prescribe testing methods. Depending on a toy's characteristics and the test results, the manufacturer would be required to attach a warning to each toy plus instructions for proper use. The warning and instructions would have to be complete and yet concise, thus offering the buyer guidance in deciding which toy to buy.

Given the tens of thousands of toys on the market, the Commission, wanting to keep government controls at a minimum, does not propose forcing manufacturers to submit samples to authorities prior to marketing a toy. Instead, manufacturers would have a choice: they could have a toy tested for safety by a recognized laboratory and receive a certificate of conformity, or they could declare on their own that their products conform to safety standards. In both instances, however, the national regulatory agencies would have to certify compliance with the standards through random checks. Moreover, the measure would give consumer organizations the right to demand that particular toys be checked. Unsafe products could be removed from the market after due process for the manufacturer or importer.

In Brief...

The Council working group entrusted with labor law matters is discussing the draft directive on the protection of workers against harmful exposure to chemical, physical and

In Brief
(contd.)

biological agents. The measure, the first move toward implementing the EEC's job safety and health programs approved by the Council in June 1978, would open the way for gradual harmonization of national provisions governing safety and health at work and would be followed by specific proposals governing individual harmful agents such as asbestos and arsenic. (The Commission has already proposed the measure on lead.) Council officials expect basic agreement on the measure in June and formal adoption a few months thereafter + + + The foreign ministers of the EEC Member States have taken a first step against Iran in order to help gain the release of the 50 American hostages. Each Member State government will see to it that after April 22 no new contracts are concluded with Iranian firms or the Teheran government. Should the new Iranian parliament fail to free the hostages, additional economic sanctions would be imposed. There are a number of reasons for this cautious approach: Common Market-based firms are still doing a multibillion-dollar business with Iran that is based on old contracts. Iranian crude oil fills 6% of the EEC's overall fuel needs, though the share varies from state to state, ranging from 2% in Italy to 17% in Ireland. Also, there are still roughly 5,000 Europeans, mostly technicians and engineers, in Iran.

...many: Bonn Proposes Mandatory Rules on Detergents

The German government has proposed regulations that would compel detergent manufacturers to reduce the phosphate content of their products by about 50%. This reduction would have to occur in two stages, by Jan. 1, 1981, and Jan. 1, 1984. It would lower the currently permissible phosphate content of 35-40% to 20%. Bonn believes a reduction of this size is possible because scientists have developed a substitute for phosphate's role as a water softener that does not have negative environmental effects. Also, the industry can afford the cost of the changeover, the government claims.

For years Bonn has tried to extract a voluntary commitment from detergent manufacturers to cut the phosphate content on their own over a specific period of time. (Both the glass and can industries have agreed to increased recycling of used containers, and the results have been encouraging.) The detergent manufacturers did not act as hoped because of disagreement over the extent of phosphate reduction and when the cuts should be made. Industry executives concurred with the government about the environmental objectives, but they also stressed that a change in production would be costly. Government leaders decided they could not wait any longer for a voluntary move and so invoked the statutory authorization granted under the 1961 Detergent Law *(Doing Business in Europe, Par. 23,547F)*. The proposal is subject to approval by the Bundesrat.

Detergents (contd.)

Government officials justify the mandatory approach on several grounds. R&D efforts to find a substitute were supported by taxpayers' money. Statistics show a steady increase in the use of detergents (about 5% annually), and the phosphate pollution of rivers and waterways has reached intolerable levels. A high phosphate content stimulates the growth of algae, and a drop in the oxygen content hampers the biological cleansing of water through bacteria.

The substitute found, a natrium-aluminum silicate called Zeolith A, has been sufficiently tested, and there have been no negative effects on the environment. Nor has it shown any damaging effects on washing machines, an argument brought into the debate by manufacturers as well as consumer organizations.

Britain: Government Acts to Reduce Strike Benefits

The U.K. government has now introduced the Social Security (No. 2) Bill, which contains proposals for the reduction of supplementary benefits paid to strikers' families by £12 per week. There will not be, after all, a "deeming" provision by which a trade union is deemed to have made an equivalent payment to a striker's dependents, but just a straightforward reduction in the amount of benefits.

The Social Services Secretary, Patrick Jenkin, said that the government had been elected to restore a fair bargaining balance between employers, both public and private and trade unionists: "That was what the country demanded, and that is what we are doing." The effect of the new provisions would be to put the responsibility for the support of strikers' families where it belonged, namely, the unions. Under the existing policy, unions had been able to use their funds for other purposes, including flying pickets and demonstrations. Many important strikes had been directed at the public itself rather than at private employers, Jenkin said, adding that "nowhere in the world does a striker's family qualify for social assistance more readily than here."

There is provision in the Act for an automatic increase in the £12 deduction, in line with inflation. This figure compares with an average benefit payment (in 1979) of £17.40 to strikers with dependents. In the recent steel strike the average weekly payment was approximately £22, which cost the taxpayer a total of over £9 million. Jenkin stated that the cuts in supplementary benefits would also apply to employees involved in a lockout, and nonunionists would face similar deductions.

An Opposition spokesman said the proposals showed the Conservatives' lack of understanding toward industrial relations. They would lead to more bitter strikes and, in the long term, might encourage the unions to accumulate significant strike funds, which could bring about strike

Benefits *(contd.)*

action more readily or encourage forms of industrial action short of actual strikes. The Trades Union Congress has recommended that unions do not increase strike payments to compensate for the deductions, so as to force the government to face the implications of its measures.

At present, only six British unions maintain specific strike funds. Union dues are very low, amounting to an average of 0.29% of the weekly wage, or about 40p. The assets of most unions are generally tied up in property investments. With 95% of the current stoppages being unofficial, observers say that in the future unions would be even less likely to declare a strike official.

Denmark: Stimulation of Business Activity

In the context of its efforts to cut the state budget deficits, the Danish government has announced new proposals to encourage business activity and investment. They foresee, among other things, a loosening of existing controls on profits and prices, notably a provision allowing businesses to include in their price calculations the costs of higher interest rates and of depreciations on new-investment write-offs. In order to stimulate investment activity in the private sector, it is planned to increase from 1,800 to 3,000 kroner the value of low-value capital goods, which can be written off immediately. Also proposed is tax freedom for state subsidies paid for production development as well as a boost to 2.1 billion kroner of state guarantees protecting export credits against exchange loss risks. The government further plans to replace state purchases abroad of some 1 billion kroner with domestic purchases of the same amount.

At the same time, Copenhagen is negotiating with the country's insurance companies and pension funds to win a voluntary agreement to transfer a substantial portion of "hoarded" investment capital into productive industrial and commercial investments. The volume of such proposed transfers has been estimated at 20 billion kroner over a five-year period.

Finally, it is planned to establish a new liaison organization between government and the business and industrial community, which would, for instance, prepare economic analyses and programs.

Italy: Rome Tightens Surveillance of Insurers

Italian insurance industry representatives are demanding a much tighter official surveillance of that sector to contain widespread irregularities and protect the image of the insurers generally, and Rome is now beginning to act on the matter. In the recent past a number of small insurance companies, particularly in the motor vehicle insurance field, have gone into liquidation because they could no

Insurers *(contd.)*

longer meet their financial obligations. Industry spokesmen urge that the inherent problems involved be tackled as soon as possible, so as to enable the sector to meet the future challenge of competitors from other EEC Member States.

Numerous newcomer companies came upon the insurance scene in Italy several years ago, when that country introduced obligatory liability insurance for motorists. During an initial boom period, many of these companies expanded rapidly, often neglecting the formation of adequate reserves and other formal financial requirements. Serious problems developed when premium income dropped off, and subsequently several insurers went into liquidation or had to be bailed out by larger companies. In addition, the industry's reputation was tarnished by reports of financial speculation and unorthodox accounting practices.

Considerable blame for this situation has been placed on the official supervisory authorities, which cannot really exercise their watchdog function because they are severely understaffed. Recent reports from Rome said that the pertinent agency, which operates under the jurisdiction of the Industry Ministry, employs only 30 officials to oversee some 220 insurance companies, large and small. Nevertheless, the agency not too long ago did take a closer look at about 100 small-sized insurers. Preliminary findings reportedly showed that nearly one-third of these (with a premium total of 300 billion lire) had committed grave irregularities, so that additional forcible liquidations are now expected.

As a result, the Industry Minister recently reshuffled the top management of the supervisory agency, replacing political appointees with insurance experts. The agency's new chief, Mario Cerallo, intends to concentrate first on ridding the industry of "pirate" companies in the motor vehicle liability insurance field and on insisting on the rigorous application of reserve requirements.

Three-Party Coalition Takes Office

Prime Minister Francesco Cossiga on April 20 won a 64-vote majority for his new center-left coalition government in the Italian Chamber of Deputies. The coalition of Christian Democrats, Socialists, and Republicans was able to command 335 votes, while the Opposition parties, headed by the Communists, accounted for 271. Cossiga's second administration is the first government in six years to muster a majority and not rely on the absence of a parliamentary censure vote. The Socialist Party last participated in a government in 1974.

The new government should survive at least until the regional elections on June 8, which are regarded as a real test of the strength of the political parties. It is as

Coalition *(contd.)*

yet unknown whether the center-left alignment represents a transition to an eventual participation of the Communists in a coalition government, or whether it will be used to expand the "middle ground" to keep the Communists in opposition. Consequently, there is still little clarity on the details of Cossiga's new program, despite his declaration to Parliament that fighting terrorism and inflation will be his two main domestic targets.

The size of the budget deficit and the future of the cost-of-living wage escalator should be the decisive issues of economic policy in the near future. None of the three key economic policy ministries is occupied by a Socialist, and, while Treasury Minister Filippo Pandolfi and Finance Minister Franco Reviglio remain in their posts, former Budget Minister Beniamino Andreatta is now replaced by a noted hard-line monetarist, Giorgio La Malfa. The rapidly rising budget deficit is now estimated to reach 43,000 billion lire this year, compared with 33,000 billion in 1979. As a result, the OECD's recommendations for covering part of the wage costs (such as employers' national insurance contributions) in the budget have been abandoned as imposing too heavy a burden on the state finances. Instead, La Malfa intends to weaken the wage cost pressure effect of the cost-of-living escalator. A possible deal with the trade unions could involve increased family allowances and reduced taxation rates in exchange for the elimination of energy-cost increases from the *scala mobile*.

Switzerland: Foreign Bids on Offering; Export Credits

In a move described by a spokesman as "a second concrete little step away from a rigid and strict opposition to any internationalization of the Swiss franc," the Swiss central bank has allowed foreign central banks and monetary institutions to participate in tendering for 200 million Swiss francs worth of three-month government certificates. Last year, the National Bank had allowed the World Bank to raise funds in Swiss francs by selling franc notes to other central banks. There is no secondary market in the government's short-term certificates, and private nonresidents are still excluded from bidding, so the central bank authorities believe they have the arrangement firmly under control.

In other news, Bern has decided to completely overhaul the Swiss export credit guarantee system, following OECD and GATT criticisms that the system amounted to direct government subsidies of exports. The system was set up in 1976 in the wake of a franc revaluation, which had resulted in major foreign exchange losses for many exporters. It pays interest-free indemnities to claimants, which are shown in national accounts as "federal subsidies."

Under the new system, which still requires approval by

Foreign Bids *(contd.)*

Parliament, a guarantee fund would be run entirely separate from other public spending. It would indemnify exporters against credit losses, including foreign exchange risks, and provide them with interest-bearing loans. In the event that the fund was unable to meet its commitments from participants' contributions and loan repayments, the state would step in with extra funds. The government expects indemnities of up to SF 900 million annually to be paid in coming years. Last year SF 305 million was paid out under the old system, on government-guaranteed export credits of SF 25 billion, including SF 9 billion of guarantees against foreign exchange risks.

Norway: Wage Pact; Sweden: Pay Deadlock

After long and intense negotiations, Norway's principal employer and labor organizations earlier this month agreed on a collective national wage packet, which provides for an overall increase of about 8%. However, this probably will not prevent a cut in real-term incomes this year, since the consumer price index has risen by more than 4% in the first quarter alone. In detail, the pact provides for a general pay raise of 5.2% as of April 1 plus "wage drift" of up to 3% over the next 12 months. The government's contribution to the deal amounts to some 1.4 billion kroner this year, consisting of some tax concessions and higher family allowances. The agreement, which was concluded on April 16, still requires balloting approval by employers and union members as well as parliamentary passage; however, no problems were expected here. Prior to the consensus, a general pay and price freeze had been in effect since September 1978.

In Sweden, meanwhile, government mediators were trying to break an employer-union deadlock over a similar pay package. In mid-April, the private employers postponed, for the second time, a scheduled lockout of 750,000 workers after the unions agreed to rescind an overtime ban which they had imposed in mid-March. In return, the employers agreed to pay 0.15 krone per workhour into a national union fund. The 2.2 million members of the trade unions and the 1.2 million members of the civil service and white-collar labor organizations are demanding incomes improvements of between 11 and 13%. The employers claim that no wage increments are possible this year if Norwegian industry is to maintain its international competitiveness. They are supported in this position by the government, which has offered tax relief and a price freeze as compensation for real-term incomes losses.

Common Market Reports

EUROMARKET NEWS

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Community: Summit Fails on Budget, Farm Prices

The two-day conference in Luxembourg of the government leaders of the nine EC Member States ended in complete failure on April 28, when the participants could not agree on a single issue, except a declaration of solidarity with the United States in the Iran crisis. The uncompromising stand of British Prime Minister Margaret Thatcher was seen as preventing any progress on the two most important items on the agenda - the size of the U.K.'s future contributions to the Community budget and the extent of farm price increases this year. Nor was any headway made toward a common fisheries policy or a solution of the French-British "lamb war." Following the summit, French President Giscard d'Estaing complained of Mrs. Thatcher's "intransigence," and German Chancellor Helmut Schmidt said that the Community had suffered "a serious setback."

In the seven-hour discussions about the British budget contributions, the European Commission had proposed to modify the so-called correction mechanism, which allows Member States contribution relief under certain circumstances. Also held out was the possibility of larger Regional Fund payments toward investment financing in Britain's underdeveloped areas. Other proposals advanced by France, Germany and the Netherlands would have resulted in reducing London's budget payments to between 450 million and 850 mil-

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Summit *(contd.)*

lion ECU, which compares to 1.8 billion ECU due this year. Despite intense pressures by the other eight EC partners, Mrs. Thatcher rejected all these offers as being "inadequate," objecting particularly to attempts to tie the budget issue to British concessions in other areas. Also, she argued, the question of the U.K. contributions should be resolved once and for all and not taken up every year.

In a meeting paralleling the summit, the farm ministers had been equally unsuccessful in agreeing on new agricultural price boosts of some 5% because of Britain's veto.

In Brief...

The Council environmental law working group is progressing on the draft directive that would restrict the discharge of aldrine into the aquatic environment. The economic consequences of the measure would be limited to the Netherlands and the U.K. since there is only one Dutch company that produces aldrine and its derivatives and there are around 20 British wool processing companies that use aldrine as a dyeing agent + + + The recent protest action by several hundred Danish truckers at a Danish-German border crossing over the slow processing of customs documents has illuminated the fact that, although the EEC has made great progress toward a complete customs union, the waiting period for trucks at the borders between Member States still averages two hours. Although all customs duties between Member States have been abolished, there are still tax frontiers due to varying VAT and excise tax rates, and a great deal of the waiting is due to the fact that customs officials not only check the documents but also collect these taxes. The Danish truckers' protest and a similar blockade by German truck drivers at the biggest crossing point into Austria has resulted in a promise by Danish and German authorities to increase manpower and extend office hours for customs clearance.

Germany: Ambitious Proposal for Pension Reform

The leadership of Germany's Social Democrats, the major government party, has approved an ambitious and costly old-age and disability insurance reform plan calling for a substantial expansion of benefits, especially for low-income pensioners. The DM 12 billion in additional revenue that would be needed each year would mean higher contributions from those already paying into the system as well as participation by individuals not yet covered. The taxpayer would have to foot the remainder of the bill. The drafters want to make the plan a major campaign issue of the national elections next fall. If the Social Democrats are returned to power, it is expected that the proposals will be turned into law in 1981.

A change in the present system is needed because in 1975 the Federal Constitutional Court set a deadline for

Pensions *(contd.)*

the government and the lawmakers to correct by 1984 at the latest an inequity in the rules governing survivors' pensions. Under present law, a widow always gets a pension after her husband's death if he was covered by social security for at least the minimum specified period. A widower, however, is entitled to a pension on the basis of his wife's earnings only if she had earned more than he did and if she contributed the larger portion to pay for household expenses. The Social Democrats' plan to eliminate this discrimination suggests that the surviving spouse receive 70% of the couple's combined accumulated contingency rights or at least his or her own pension. This concept would cost some DM 3 billion more annually.

Although the government has no choice but to comply with the high court's ruling, the Social Democrats have taken advantage of the opportunity to suggest other changes and innovations. For instance, it has been proposed that mothers be credited with an additional year of social security coverage for each child (the so-called baby year). The objective is to give some financial reward to working women who also raise children. A woman could count on additional pension benefits of DM 20 a month for each child. The cost of this feature would be DM 3.8 billion more each year.

In addition to wanting to expand benefits, the Social Democrats are also looking for new contributors to pay for them. The 250,000 members of the liberal professions, now free to provide for their retirement themselves, are among the main targets. If the plan were realized, members of the liberal professions would have to contribute to social security like persons in employment and would be covered accordingly. However, even then there would not be enough money to keep the social security system in the black. (The contribution rates will go up to 18.5% as of Jan. 1, 1981; *Doing Business in Europe, Par. 23,453)*.

Italy: Progress on Finance Law, 1980 Budget

After several months of delay, final approval was seen near for Italy's 1980 Finance Law, which, according to the constitution, must go through both houses of Parliament before a new budget can be passed. So far this year the government's revenue and expenditure operations have been based entirely on provisional approval granted by Parliament, which ran out at the end of April.

Last month the Senate sanctioned the changes to the Finance Law recommended by the Chamber of Deputies but at the same time refused to accept any more modifications. To save time, the Senate also passed the 1980 budget, and it remained only for the Chamber of Deputies to approve the entire package. The principal reason for the lengthy delay was seen in the fact that the Cossiga government had in-

Finance Law *(contd.)*

cluded in the Finance Law a great many controversial features, which provoked even more criticisms and numerous amendments.

One of the casualties of the parliamentary wrangling over the Finance Law has been a clause, inserted by the Senate, which would have allowed Treasury Minister Filippo Pandolfi to alter the budget by decree if and when he deemed it necessary. However, the Chamber of Deputies saw no reason to give away its own powers in this respect. Another major topic of discussion was the doubling of wage-earners' tax-free allowances proposed by the Communists and eventually supported by Finance Minister Franco Reviglio. In return for his backing, Reviglio now expects some wage concessions from the trade unions, which would compensate for the 700 billion lire of lost tax revenue.

In other news, the figures for March show a continuing deterioration of Italy's payments balance, even though the provisional 455-billion-lire deficit was not as large as the record 925-billion shortfall in February. Nevertheless, Rome expected an improvement with the advent of the tourist season, and the authorities continued to disclaim any need for a readjustment of the lira within the European monetary system.

Britain: Change Planned in Sickness Benefits

The U.K. government has issued a consultative Green Paper, "Incomes During Initial Sickness - a New Strategy" (Cmnd. 7864), with proposals for employers to make a flat-rate minimum payment of £30 per week at 1980 levels to employees during the first eight weeks of illness. This would replace the state sickness benefit at present available and is likely to be implemented by 1982. The full £30 payment would not, however, be made to low-wage earners, who would receive a portion of their normal earnings. Since the minimum sum would be related to current social security sickness benefits, its level would be revalued each year.

A £30 rate would be estimated to add a further £415 million per year to employers' wage costs and an extra £85 million to national insurance contributions. To compensate for this, there would be a reduction of 0.5% in the employers' national insurance contribution rate which is supposed to reflect the collective liability for the extra employment costs. Since the employee would be treated as remaining on the payroll during the sickness period, both he and the employer would continue to be liable for national insurance contributions.

No payment would be made for the first three days of illness, and an employer would generally be entitled to a direct repayment of half the minimum sick pay benefit paid to employees with less than eight weeks' service. Since the

Benefits *(contd.)*

employer would be liable for the minimum payment in respect of eight weeks in any single tax year, this could involve payment over a total period of 16 weeks if an employee should be incapable of work in a period straddling two separate tax years. Decisions of entitlement would be taken on the basis of advice by the employee's doctor.

The proposals are intended to reduce the considerable administrative duplication of the employers' and government's sick pay plans. They have received a mixed welcome from the Confederation of British Industry, which, while approving the principle of taxing sickness benefits, believes that they could apply inequitably between companies and result in a heavy administrative load. The Trades Union Congress regards the measures as a "further clear attack on the benefit entitlement of the sick." Employers would be less willing to employ disabled persons, or those with bad health records, and generally employees would get a lower return from their national insurance contributions. In addition, families with children would be worse off.

Sweden: Strike Wave Mounts as Pay Talks Falter

Prospects for a speedy resolution of Sweden's long-brewing labor conflict faded late last month when mediators presented the trade unions with a settlement proposal that hardly differed from the 1.3% offered by the SAF employers' federation and already rejected by all unions. The latter are demanding between 12% and 13%. As of April 26, 14,000 public-sector employees were out on selective strikes, and another 12,000 were locked out. The walkouts paralyzed virtually all air and rail traffic, affected hospital services, and disrupted communications.

Sweden was faced with even more serious problems as of May 2 if no central wage accord was reached by then for the private sector as well. The blue-collar labor federation LO had scheduled a strike of 100,000, and the employers were prepared to retaliate by locking out 750,000 for a week. In this event, Sweden would experience the biggest wave of strikes since 1909.

Greece: Cooperation Agreement with Washington

In efforts to firm up Greece's traditional ties with the United States at the same time as the country joins the EEC next year, the Athens government has signed with Washington a five-year framework agreement covering cooperation in the economic, scientific, technological, educational and cultural fields. Signing for the U.S. was Ambassador Robert McCloskey and for Greece, Coordination Minister Constantine Mitsotakis.

The agreement contains no specific commitments by either side but concentrates on the establishment of three working groups, which are to meet at least once a year.

Cooperation *(contd.)*

One will identify and investigate areas of potential closer cooperation, another will review economic and commercial relations, and the third will recommend programs for economic growth and development through mutual cooperation. In a speech at the signing ceremony, McCloskey specified solar and wind energy technologies as areas in which the United States would help Greece.

In other news, the Greek government has lifted the so-called luxury tax of 25% imposed in November 1979 on certain categories of imported goods.

Liechtenstein: Passage for Company Law Reform Bill

In its first session of the year, the Liechtenstein parliament has unanimously passed government legislation revamping and tightening certain company law provisions. The vote was preceded by a debate on the final draft worked out by a five-member conference committee, which had been charged with the task of streamlining and somewhat modifying the government's original bill after the first parliamentary reading last summer. The result is reform legislation that does not essentially change Liechtenstein's liberal company law system but includes a number of safeguard measures to curb and prevent abuses.

In the most general terms, the reform law:

- upgrades the requirements pertaining to professional qualifications of members of the management board *(Verwaltungsrat)* of companies domiciled in Liechtenstein;
- introduces for most company categories the requirement of an obligatory "control point" *(Kontrollstelle)*, i.e., the auditing of balance sheets, profit and loss statements, and inventories by independent auditors;
- provides for a changed organizational structure of *Anstalten* (establishments);
- modifies the legal rules pertaining to foundations *(Stiftungen)*, which in the future will be barred from engaging in any commercial activities;
- abolishes certain legal forms of doing business; and
- introduces a balance-sheet reporting requirement, or at least a declaratory obligation *(Deklarationspflicht)*, for companies that so far have not been required to publish balance sheets (establishments, for instance).

The conference committee went beyond the original government bill by extending the range of individuals qualified to take on a management board mandate. According to the first draft, at least one board member would have to be an attorney, legal agent, trustee, or auditor; the approved version extends this also to individuals with "recognized" business qualifications. Parliament also supported the committee's position whereby, during a transitional period, all companies will have to adapt themselves to the new law, whereas the government had proposed this merely for newly

Reform Bill *(contd.)*

established companies. Furthermore, Parliament followed the commission's version in restricting the activities of foundations and in incorporating fiduciary law in the reform. Thus, in the future, fiduciary transactions *(Treuhandschaften)* in all cases will have to be reported for the public register, in contrast with previous law, and there will no longer be a distinction between open and anonymous fiduciary arrangements.

The new law, expected to take effect at the end of this month, should help eliminate abuses that in the past have arisen through the use of Liechtenstein holdings and trusts in international commercial and financial transactions. A few years ago, the Crédit Suisse bank had suffered losses of over SF 1.2 billion because a Liechtenstein letter-box company, Texon, had been engaged in uncontrolled transactions with a Crédit Suisse branch in Chiasso.

EURO COMPANY SCENE

AMSA/ Arthur Young

Eleven leading European accounting firms have announced plans to form a new accounting group, AMSA, which will also include the Continental firms of Arthur Young & Co., one of the "Big Eight." The group will have its coordinative headquarters in Amsterdam and be formally launched on July 1. At the start, AMSA will be represented in 15 European countries with 88 offices and more than 5,500 employees; its total revenues would be in excess of $225 million. Together with Arthur Young International, the group will have a network in 56 countries.

The AMSA founding firms are Atag Allgemeine Treuhand-AG, Switzerland; FIS Fiduciaria Generale Spa, Italy; Arthur Young McClelland Moores & Co., Britain; Boman OG Hokholt AS, Norway; Centralanstalten for Revision, Denmark; A. Durando & Cie. SA, France; Hagströms Revisionsbyra AB, Sweden; Hussey Stewart Bennett & Co., Ireland; Moret & Limperg/ Moret Gudde Brinkman, the Netherlands; Schitag Schwäbische Treuhand-AG, Germany; Süd-Ost-Treuhand-AG, Austria; and Arthur Young & Co., various European countries and the U.S. Each member firm, it was explained, will remain independent and will continue to work under its own name and in keeping with the respective national professional rules and standards.

AMSA's formation must be seen against the background of the EEC's company law harmonization and, specifically, the introduction of group accounts in all Member States (Seventh Company Law Coordination Draft Directive - *Common Market Reports, Par. 1407*). Also, the member firms like to see the new group as a counterweight to the United States' Big Eight but also to other European-dominated groups.

Bowring/ Marsh & McLennan	Marsh & McLennan of New York, the world's largest insurance broker, appears to have come close to its goal of taking over C.T. Bowring & Co. Ltd., the London insurance broker, after raising its previous offer to the Bowring shareholders. The management of Bowring, one of the member underwriting groups in Lloyd's, said it would recommend that the shareholders accept the new bid of $419.8 million, or $3.85 per share. The previous offer had been $389 million, or $3.56, respectively. As part of the transaction, three shares of Marsh & McLennan stock plus $206.04 in cash would be exchanged for every 100 ordinary Bowring shares.
General Reinsurance/ Trident/ Schlesinger	In other U.K. insurance news, General Reinsurance Corp., the largest reinsurance group in the United States, is purchasing Britain's Trident Insurance Group and its affiliates from the Schlesinger Group. London reports put the price well above $20 million.
Enskilda/ Dillon Read	Skandinaviska Enskilda Banken, Sweden's largest bank, plans to pay $5 million for a 20% stake in Dillon Read, the New York investment house. The participation will be divided equally between common stock and a subordinate loan. In return, Dillon Read will take over Enskilda Banken's U.S. corporate finance business, which is now transacted through an investment banking subsidiary, Scandinavian Securities Corp.
Barclays/ Aetna	Barclays American Corp. (BAC), a subsidiary of Britain's Barclays Bank International, is expanding its consumer-oriented activities in the U.S. with the purchase for $165 million of Aetna Business Credit. The latter is a subsidiary of Aetna Life & Casualty and reported 1979 earnings of $10.9 million. The deal is still subject to approval by the U.S. authorities.
Banque Bruxelles Lambert/ Chrysler	According to Brussels reports, Banque Bruxelles Lambert has announced that it is "suspending" its action in a New York court for the recovery of an overdue loan of $10 million from Chrysler Corp. The legal move by Belgium's No. 2 bank against Chrysler at the end of March had been feared to set a precedent for other foreign creditors of the automobile company, which is battling for financial survival.
Swedish Match/ UMC	At the annual general meeting of Swedish Match last month, it was announced that the company had reached tentative agreement to acquire the match division of the United States' UMC Industries, Universal Match. With plants in Hudson, N.Y., and Ferguson, Mo., Universal Match reportedly is the world's largest producer of advertising matches. Financial details of the deal were not released.

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EUROMARKET NEWS

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Community: Court Curbs Customs on Transfer Prices

The European Court of Justice has held that EEC customs rules do not empower national customs authorities to attach to goods imported from a third country a value lower than the invoice price stated by the importer on the declaration form. Nor may customs lower the customs valuation by considering elements that are not reflected in that price. In essence the Court's ruling means that the transfer of profits within multinational corporations by higher or lower pricing of goods sold among companies forming a multinational group, called transfer pricing, does not violate EEC customs regulations (judgment of April 24, 1980; Case No. 65/79).

Alleged transfer pricing between the Swiss Sandoz Corp. and its subsidiary in France brought the subsidiary's manager before a French court. He was charged with having violated French capital export control rules by allegedly transfering the subsidiary's profits out of France without paying taxes on them. From 1971 through '73 Sandoz had sold its French subsidiary base products for pharmaceuticals which were invoiced at FF 90 million. French customs valued the merchandise at FF 54 million.

A lower French court found the manager guilty but suspended sentencing so it could approach the Court of Justice for clarification of several issues. It asked for prelimi-

This issue is in two parts. This is Part I.

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Customs *(contd.)*

nary rulings on the interpretation of Regulation No. 803/68 on the valuation of goods for customs purposes, of No. 375/69 on the declaration of particulars relating to the customs value, and of No. 1581/74 on the price reduction to be taken into account when determining the value of goods. It also asked for an interpretative ruling on the 1972 EEC-Swiss trade agreement and, finally, whether all these measures allow customs authorities of a Member State to reduce the value declared by the importer *(Common Market Reports, Pars. 314-315)*.

Advocate General Francesco Capotorti, who delivered his conclusions on the case on Feb. 12, supported the actions of French customs. He said national customs authorities could not only attach a higher value to an imported product but could also freely reduce the value stated in the customs declaration form after comparing market prices. He added that in evaluating a product, customs may consider elements not described in EEC customs rules contained in Regulations Nos. 803/68 and 375/69. The Court of Justice rejected this broad line of thinking.

Sandoz's defense was largely based on the argument that EEC rules compel an importer to state the truth about the quantity and quality of goods as well as the price actually paid. The Court of Justice agreed, saying in effect that EEC customs rules cannot be used as an instrument against tax evasion. Only where invoiced prices are deliberately kept below the product's value could national customs intervene and raise the value accordingly, since charging deliberately lower prices is contrary to the Community's customs regulations and violates competition rules.

The Court did not say whether an importer would be immune to prosecution when national customs ascertains that the prices invoiced were excessive. Here the Court said that the customs value established by customs does not bind national tax authorities; thus, both the manager and the Sandoz subsidiary may face a legal battle with the French authorities over alleged transfer pricing purely from a tax viewpoint.

AG Warner Backs Commission's Search Powers

Advocate General Jean-Pierre Warner has backed the European Commission on all points of the latter's defense against Britain's National Panasonic over alleged violation of rules governing investigations and infringement of fundamental rights. Delivering his conclusions in *Panasonic v. Commission* (Case No. 136/79) on April 30, Warner said that Article 14 of Regulation No. 17/62 allows Commission officials to enter business premises unannounced to obtain the information needed by the EC executive in order to fulfill its duties as an enforcement agency of EEC competition rules. He added that a safeguard requiring prior notice to

Search Powers *(contd.)*

the company would eliminate the practical effect of a subsequent investigation.

On June 27, 1979, two Commission officials arrived without prior announcement at Panasonic's sales offices and told management about the Commission's June 22 decision authorizing an on-the-spot investigation of company files; they left subsequently with a number of copied documents. In August Panasonic appealed to the European Court of Justice demanding that the decision be voided and that the documents seized be returned. Panasonic claimed that Article 14 of Regulation No. 17/62 empowers the Commission to authorize an on-the-spot investigation only after the company has been given an opportunity to come forward with the requested information voluntarily *(Common Market Reports, Pars. 2531, 2532)*, and only when a company fails to do so may the Commission send officials to the premises. Panasonic went back to the legislative history of Regulation No. 17/62 and found support for its two-stage-procedure argument in a statement by former commissioner Hans von der Groeben. Article 11 of Regulation No. 17/62 provides for the two-stage procedure: failure to obtain a satisfactory answer to a request for information is expressly made a condition precedent to the adoption of a Commission decision to authorize a search *(Common Market Reports, Pars. 2501, 2502)*.

In its defense the Commission maintained that Article 14 does not provide for the two-stage procedure. To accept Panasonic's arguments would mean it would be impossible to carry out an investigation involving the element of surprise, no matter how serious the circumstances, without giving management an opportunity to remove or destroy documents. Warner agreed with the Commission that there is nothing in the language of Article 14 that would suggest such a two-stage procedure. Nor could the legislative history provide any support in favor of Panasonic's stand because Von der Groeben's remarks and those of others, including members of the European Parliament, cannot provide any guidance as to the intentions of the Council when it enacted Regulation No. 17/62, according to Warner. He pointed out that adoption of a regulation means that the Council agreed on a text, but this does not mean that all members of the Council have the same view of its meaning. In Warner's opinion only the Court can pronounce the final interpretation.

If the Court of Justice finds that the Commission has the power under Article 14 to send agents to search company files without asking first for voluntary cooperation (the view held by most experts), the Court still must decide whether Article 14 infringes on fundamental rights. Both the Commission and Warner believe these rights were not violated.

In Brief...

There is no longer a chance that the EEC, Finland, Norway, Sweden, and Iceland will agree on a convention concerning mutual assistance of tax authorities in matters of assessment and collection of direct taxes and value-added tax. Last year the four countries had approached the Commission to open negotiations to provide access to the Community tax assistance system in effect since Jan. 1, 1979 (expanded to include VAT as of Jan. 1, 1981) *(Common Market Reports, Par. 3211.21)*. As a first step in the EEC's drive against international tax evasion, the system commits the national tax authorities to exchanging information and rendering mutual assistance in tax matters, but it also forbids them to reveal business secrets. Although the EEC has the power to enter into such an agreement with third countries, the ban on disclosure of business secrets bars the Community from concluding such an agreement because it would put the EEC system in jeopardy. This means that the four countries will have to conclude separate agreements with each individual Member State.

Germany: Old Contracts with Iran Could be Barred

Following the April 22 decision of the foreign ministers of the Nine placing a ban on new contracts with Iranian firms and the Tehran government, the German government took only two days to issue two regulations making the export of products and extension of credits to Iran subject to government approval (Bundesgesetzblatt, April 24, 1980; Part I, page 445). Bonn could act so quickly because it has had the statutory power to take such a step for more than twenty years. Although the foreign ministers did not specify what should be done with old contracts (the matter will be taken up at the ministers' May 17 meeting), the German regulations make no distinction between old and new contracts since the U.N. Security Council's resolution (vetoed by the Soviet Union) does not differentiate either.

There is some disagreement within the government about the extent of these regulations, and executives of companies that concluded contracts with Iran as long as six years ago are most unhappy about the regulations. Economics Minister Otto Lambsdorff says the government moved on solid legal ground when it adopted the regulations, and businesses with old contracts might be denied the licenses they need to carry out the agreements. Justice Minister Hans-Jochen Vogel, with some support from Chancellor Helmut Schmidt, insists that old contracts must be fulfilled. Vogel cites Section 2 of the Foreign Trade Law, the basis for the two regulations, which protects the exporter to the extent that restrictions on the freedom of doing business should be kept to a minimum; restrictions may be placed on existing contracts only if the objectives pursued would be in jeopardy. Vogel has warned the other cabinet ministers that if businesses are denied licenses to complete existing

Iran Contracts *(contd.)*

contracts, they would stand a good chance of winning damage suits against the federal government. In Vogel's opinion such a denial would be tantamount to expropriation, which the constitution allows only for limited purposes and only against compensation.

Company executives are still hoping they can carry out the old contracts. If the foreign ministers of the Nine decide that their earlier ban should also apply to old agreements, the executives are hoping that some exceptions will be made by the government office entrusted with applying the regulations (Bundesamt für gewerbliche Wirtschaft, in Frankfurt).

France: Compromise Proposal on Worktime Cuts

In first reactions, French union and employer organizations have described as "solid and useful" a compromise proposal on worktime reductions worked out by a mediation commission led by Pierre Giraudet, the head of Air France. The commission had been set up by the government following the collapse last January of negotiations on this issue, which had started back in October 1978. The stalemate resulted when the employers insisted they would talk only about annual, not weekly, worktime cuts and when they made a fifth week of annual leave dependent on a minimum number of workhours per year. Also, they wanted overtime limits to be reduced.

The Giraudet Commission's proposal foresees a reduction of the annual legal worktime from currently 1,920 hours to 1,816 hours at full pay. Abolished would be the widespread practice by employers of compensating for eight legal holidays per year by scheduling work on several Saturdays; thus, the number of annual workdays would drop from 240 to 232. In addition, each employee would receive a "credit" of 40 workhours, and it would be at his option whether to use it to reduce his weekly worktime or in the form of a fifth week of paid leave.

On the basis of the commission's recommendations, the number of workdays per year would be reduced to 227, i.e., to 1,816 workhours. It is assumed that most employees would opt for a fifth week of annual leave. (At present, all French employees are entitled to at least four weeks of annual leave - *Doing Business in Europe, Par. 22,935* - and one-third of them already enjoy five weeks.) The Giraudet Commission further proposes that the maximum number of annual overtime hours per employee be trimmed from currently 348 to 140. In this case it would no longer be necessary to have the labor inspectorates issue overtime permits. This procedure would largely meet the demands of the employers for more overtime flexibility in accordance with a company's individual production situation. The Patronat Francais, the national employers' federation, reportedly

Worktime *(contd.)*

would have liked more incentives to curb absenteeism by tying attendance records to holiday entitlement.

In any case, it is felt that the recommendations of the Giraudet Commission provide a firm base for a continuation of the employer-union talks, which eventually could lead to a reduction of the workweek to less than 40 hours.

Belgium: Parties Agree Not to Impose Freeway Levy

Heavy opposition from various sides and prospects of high administrative costs have apparently persuaded Belgium to drop its controversial plan for the introduction of a special levy on the users of the country's freeways. During the negotiations over a new coalition administration, the six parties involved have tentatively agreed to scrap this proposal and instead raise the automobile tax. Also, the latter tax would be indexed to the annual inflation rate.

Originally, the government had planned to collect the freeway levy from both domestic and foreign motorists and truckers as of Jan. 1, 1980. It had been estimated that the extra revenues resulting from this levy and from higher fines would total about BF 3.5 billion annually; they were to be used for the improvement of the country's transport infrastructure. The government's plans encountered stiff protests notably by Belgium's Benelux partners, Germany, and the U.K., which feared detrimental effects on intra-EEC commercial road haulage. Members of the European Parliament also directed inquiries to the European Commission.

Britain: Court Allows Damage Suit Switch to USA

In *Castanho v. Brown & Root (U.K.) Ltd. & Another*, Britain's Court of Appeal, in a majority verdict, has decided that a Portuguese employee, who was disabled in an accident on a North Sea oil supply ship, could discontinue his action against his employers in the English courts and instead pursue proceedings in Texas, where the potential damage awards would be substantially higher. This case illustrates the sizeable difference in the British and American courts' assessment of damages and in their respective attitudes toward lawyers representing their clients on a contingency fee basis.

The plaintiff, Mr. Castanho, began proceedings in England to obtain compensation for his injuries (he was rendered quadriplegic) and had already received an interim payment. At this point he was approached by Texas attorneys, who recommended that he bring action against his employers, a multinational company, in Texas. He would be likely to receive at least $5 million in damages in the American courts, whereas in England the maximum was likely to be only £150,000. If he agreed, he would sign a power of attorney, which would entitle his U.S. lawyers to a fee

Damages
(contd.)

of 40% of the damages recovered. In addition, the attorneys would agree to supply Castanho with liberal financial support pending recovery of the actual damages. They also undertook to repay, out of their own pockets, the interim payments, which totaled £27,250.

In his dissenting judgment, Lord Denning said that this offer by the U.S. lawyers to make good the interim payments, looking forward to their 40% fee, was "champertous" in the eyes of the English courts, which had jurisdiction over the English action. Alternatively, by seeking and accepting the interim sum, Castanho had elected to pursue his right of action in England rather than the U.S. However, the other two judges did not agree. Lord Justice Brandon said the power to compel a plaintiff to sue "here" by restraining him from proceeding in another forum elsewhere should be exercised with the greatest caution. If, despite the greater inconvenience and expense of determining the claim in Texas, the plaintiff stood to recover - even after contingency fees - a much larger sum, it seemed entirely legitimate for him to do so.

Lord Justice Shaw said that American corporations and their insurers were aware of the scale of damages in the U.S.,which was in the region of ten times what was regarded as appropriate by conventional British standards. Thus, policies and premiums were arranged accordingly. The case concerned money and not morality, and therefore the plaintiff should be allowed to discontinue his action in England.

Under British law, any arrangement by which a lawyer receives a proportion of any damages has always been regarded as champertous and unenforceable, and the recent recommendations of the Royal Commission on Legal Services were against any change. However, with an increasingly large proportion of people being ineligible for legal aid and unable to fund actions themselves, some observers believe that the introduction of a contingency fee form of remuneration cannot be too far off.

Switzerland: Proposal for Road Tax on Heavy Vehicles

Among the various proposals and considerations by the Swiss government for ways of closing its budget deficits - last year's shortfall came to SF 1.7 billion - is a plan for a road tax on heavy commercial vehicles, both trucks and buses. Draft legislation calling for the introduction of such a levy, which would affect both domestic and foreign truck traffic in Switzerland, was submitted to Parliament in March. If passed by the assembly, the bill would still be subject to a constitutional referendum.

The amount of tax *(Schwerverkehrsabgabe)* would be governed by tonnage and distances travelled annually. Depend-

Road Tax
(contd.)

ing on the type of vehicle, the annual tax per unit would vary from SF 1,000 to 20,000. Spokesmen for the private transport sector in Switzerland have estimated that this would raise operational costs by between 3% and 18%. Foreign vehicles, which account for about 5% of Swiss road transport, would be subject to a flat fee upon crossing the border. This fee would range from SF 40 to 195 per trip, again depending on the type of vehicle and the estimated distance to be travelled.

Total revenue from the levy would be estimated at SF 350 million annually, of which 70% would be earmarked for the cantonal governments. Bern justifies the proposed heavy vehicles tax with the argument that existing fuel taxes and other levies applying to commerical road transport cover only a part of the road construction and maintenance costs caused by heavy trucks, trailers, and buses.

The federal government believes that its action, should it come to pass, would trigger only limited retaliatory measures against Swiss commercial vehicles travelling in and to other countries. There have been questions about the legality of the proposed step vis-à-vis Switzerland's EFTA partners and those countries, about 20, with which Bern maintains transport agreements. It has been conceded that the European Commission has reacted with disappointment to the Swiss plans, not least because there had been hopes for a uniform European arrangement. Bern insists that its levy would have no distortive effects on competition nor would it be discriminatory, because it would affect domestic and foreign transport in Switzerland in equal measure. The government also does not plan to introduce tolls for the use of the national freeways and alpine tunnels.

Sweden:
Labor Dispute
Resolved

In Sweden employers agreed to the proposal of a mediation panel that workers receive a 6.8% wage increase. The Trade Union Confederation had already accepted the panel's terms, and it was expected that the 100,000 workers who were on strike and the 700,000 who were locked out for more than a week would be returning to work. Sweden had been moving toward a national emergency situation in the first and second weeks of May with the continuation and worsening of a massive labor conflict, which paralyzed about 80% of industry.

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Community: Action Against Italy Over Shipyard Aids

Italy has become the first target of the European Commission's drive to clamp down on unlawful state aids. Proceedings have been opened under Treaty Article 93 against Rome because of the latter's plan to grant shipyards a 15% subsidy on contract prices charged for ship repairs carried out between January 1979 and December 1980. No other Member State government aids its shipyards in the same way or is planning to do so. To let the Italian government carry out its plan would be contrary to the Treaty's state aid rules, according to Commission lawyers. Article 92 bars any type of assistance to an individual enterprise or sector of industry if it distorts or threatens to distort competition and if it adversely affects trade between Member States *(Common Market Reports, Par. 2922)*.

The EC executive has given Italy one month to explain why it believes the plan would not be in default of the Treaty. Article 92 allows government aids only to promote the development of regions with high unemployment or to remedy a serious disturbance in a State's economy. Neither of these conditions exist. Thus, if Rome carries out the plan, it could be taken to court. It is hoped that this would discourage other States from introducing similar plans. Some of them reportedly have been toying with the

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Shipyard Aids *(contd.)*

idea, even though the Commission's position on the matter has been clear for some time. In last year's report on the situation of the Common Market's shipyard industry, the Commission reemphasized that the only type of aid it would consider compatible with Article 92 would be grants to enable shipyards to adapt to changed market conditions; at no time could such grants be given to compensate for shipyards' losses.

For years the Commission has adopted a relaxed attitude to the numerous kinds of aid that Member State governments have given to businesses. Political rather than legal reasons were behind this restraint. However, with unemployment in the Common Market standing at 6.5 million, governments are looking for ways to create jobs, like attracting new businesses or encouraging existing ones to expand. Some of these plans are contrary to the EEC's state aid rules. Since the national governments are required to inform Brussels about any aid plans, the EC executive has an overall picture of what is happening. In the last year the Commission vetoed several individual aid projects; about 20 are being examined at present.

Problems Faced in Reactivating Turkey Pact

Officials from the Member States, the Community, and the Turkish government will meet next month in Istanbul to discuss proposals for reactivating the association between the Community and Turkey. The agreement has been stalled for several years because Ankara could not meet its commitments on tariff reductions due to economic difficulties.

In effect since Dec. 1, 1964, the agreement provided for the EEC to dismantle immediately customs barriers and most quotas, while Turkey agreed to eliminate customs duties gradually from 1969 until the end of 1981. For a large number of Turkish products that initially could not compete with similar EEC products, the elimination of barriers did not have to be effected until the end of 1985. Turkish agricultural products, which comprise more than 90% of the country's exports, benefit from preferential treatment until Ankara has adapted its farm policy to allow free movement of goods by the end of 1989.

Both sides agreed to stimulate capital movement. (Red tape and political upheaval have discouraged foreign investments.) Most important, Turkish workers and their families were to be given freedom of movement within the Community by 1986, and they were to be granted the same social security status enjoyed by workers from Community Member States. A financial protocol made roughly $400 million available in 1975-1980 for the development of the Turkish economy *(Common Market Reports, Par. 5346)*.

There have already been several attempts to modify the agreement and increase aid. Although the $1.3 billion in

Turkey *(contd.)*

financial support organized by the OECD will help, the Community and the Member States have offered to set up a special cooperation fund of at least $400 million to be spent on projects involving Turkish and EEC companies and on aid to help Turkish export industries. The Community and the Member States are willing to meet the Turkish request to postpone removal of customs duties for products made by new industries.,.

Financial aid, dismantling of tariffs, and further concessions for Turkish farm commodities present problems, but even more critical is the matter of freedom of movement. Observers say that the Community and the Member States aren't anxious to reinstate their original commitment, and Turkish government officials are concerned about this. While the agreement provides for free movement as of 1986, Germany insists on an amendment that would make such free movement dependent on the availability of jobs. In addition to the 520,000 Turks now working in Germany, one million more are waiting for work permits, which would allow them to emigrate there. Community and Member State officials hope to convince Turkey that full freedom of movement would not be advantageous for either side. Ankara has "threatened" to apply for full membership in the Community if it is dissatisfied with the results of the meeting.

In Brief...

The Council of Ministers has converted the provisional antidumping duty imposed by the Commission last December on certain U.S.-made synthetic fibers into a definitive duty. The rates are 13.7% on discontinuous acrylic fiber (polyester filament) and 17.6% on continuous filament tow of acrylic fiber (nylon yarn). As a result of the Commission's investigations, the definitive duty would appear to apply to fibers made and exported by American Cyanamid Co. (Official Journal No. L 114, May 3, 1980, page 37) + + + The Council of Ministers has approved sanctions against Iran which apply only to contracts entered into after the date the American hostages were seized in the U. S. embassy + + + The Commission has granted an exemption from the cartel ban of Treaty Article 85(1) to an agreement among Europe's 11 leading synthetic fiber manufacturers. Designed to cut back excess capacity, the agreement no longer contains clauses on market allocation and price discipline that were written into the 1977 draft.

Germany: Modification of Tax Offices' Reorganization

Criticism from taxpayers and tax advisers about the negative impact of the recent reorganization and computerization of German tax offices has produced results at least in the state of North Rhine-Westphalia, where more than a quarter of the country's 435 tax offices are located. The finance minister of that heavily industrialized and most

Tax Offices *(contd.)*

populated German state has announced that the most annoying of the practices produced by the reorganization will be cut back as of next year. Critics are hoping the other ten states will follow suit.

In 1976 the finance ministers of the 11 states issued a uniform decree to reorganize the tax offices and to use computers more extensively. The decree also set forth rules for handling taxpayers' returns. One result of the reorganization was that a taxpayer's account is now processed by several tax officials instead of just one. A taxpayer or tax adviser may no longer call on one particular tax official about a return but must contact several persons. Often he does not succeed right away, either because an official is absent or because a colleague must be consulted. Taxpayers and tax advisers have said this procedure can be very trying, aside from the fact that it wastes time and money.

Two years ago the Federal Constitutional Court refused to hear constitutional complaints against the administrative decree, reasoning that its rules did not directly affect taxpayers' constitutional rights. This ruling has not silenced the critics, and the validity of their arguments has been indirectly confirmed by the announcement that there will be changes in the tax offices of North Rhine-Westphalia.

According to the finance minister's plan, the use of electronic data processing will be cut back. (Both taxpayers and tax advisers had complained about the difficulties of learning computer language.) Furthermore, one official would again be in charge of handling a taxpayer's account and answering queries by the taxpayer or his tax adviser. The specialization in assessment procedures would be reversed in favor of the general rules applied prior to the 1976 decree. This would mean, for example, that an individual or corporate taxpayer would be assessed by one division, which would also check the assessment. In addition, that division would decide on related matters such as requests for deferment of payment. At the present time, assessment and review are handled by two separate subdivisions, and yet another subdivision does nothing but act on applications for deferment of tax payments.

Britain: Changes in Company Name Registration

The U.K. Department of Trade has issued a consultative document incorporating proposals for a reduction of its functions in company and business name registration *(Doing Business in Europe, Par. 23,795)*. These measures are to be included in the projected bill dealing with company accounting and disclosure in the 1980-81 session of Parliament.

Company Names *(contd.)*

The basic rule has been that no company shall be registered by an "undesirable" name. Since promoters could not be certain that a particular name would be accepted, provisional approval for a proposed name was sought in most cases. This increased considerably the work entailed in approving each name. Accordingly, it is suggested that the Registrar of Companies would in the future register a company by any name proposed, with three qualifications - (1) he would not register a company by the name of a company already on the register; (2) he would refuse to register a name deemed to be obscene, offensive or illegal; and (3) a list of words would be prescribed which could not be used in company names, or could be used only with consent, or when specified conditions were met.

The consent of the Secretary of State would be required, for instance, for the registration of a company by a name that includes a word or words implying national or multinational preeminence - "international," "national," "Common Market," "European" (or "Europe" or "EEC"), "United Kingdom," or "British." Similar consent would be needed for words implying business preeminence or representative status - "associated," "federated," and "institute." The same would apply to names implying certain specific objects or functions, e.g., "group," "holding," "trust," "unit trust," and "assurance." The words "limited," "unlimited," and "public limited company," or their abbreviations would have to be the terminal words in a company's name. A limited company would no longer be allowed to omit the word "limited" from its name.

Companies registered overseas which carry on business in the U.K. are at present required to register the name under which that business is conducted. Such companies can be required to use some other name in Great Britain if the use of their corporate name is deemed "undesirable." This control is to remain under the new rules.

The requirement that most companies must print the names of their directors on their stationery and various business documents would no longer apply. It is further proposed to abolish the Registry of Business Names, although it is likely that there will be approaches from the private sector to continue its various functions. There would also be changes in the arrangement for storing original company documents.

Denmark: Revised Budget Savings, Tax Plan Proposed

Denmark's Social Democratic minority government has put forward a revised package of tax increases and budget savings, following several weeks of unsuccessful parliamentary negotiations over Prime Minister Anker Jörgensen's original "Easter Package." The principal feature is the replacement of the original package's proposed new real estate tax by

Savings *(contd.)*

an increase in value-added tax from 20.25% to 22% as of July 1, which would add DKr 3.1 billion to government revenues. Other ingredients are a 25% increase in automobile license fees and a reform of the national pension system. (Increases in energy-related tariffs and gasoline taxes are to remain as planned in the original package.) This would generate the extra revenue of DKr 5 billion, along with DKr 8 billion of budget savings, although DKr 912 million of savings are still to be allocated.

The original package failed because it received no support from the two largest Opposition parties, the Liberals and the Conservatives. The new plan seems assured of parliamentary passage because it has the agreed backing of three smaller parties, the Radical Liberals, the Center Democrats, and the Christian People's Party. Together with the Social Democrats, they command 90 of the 179 seats in Parliament.

Covering only the budget year 1981, the new program is intended to deal with Denmark's rapidly growing payments deficit, which reached DKr 15.6 billion in 1979 and is expected to be DKr 16.3 billion this year. It is hoped that a reduction of total demand by up to 1.9% of this year's expected GNP as a result of the measures will help in reaching the target of a payments deficit of DKr 12-13 billion next year. Many Danish economists, however, regard the measures as grossly inadequate and warn that the government can scarcely expect to carry the country through to the end of this year without having to present yet a further savings program.

The new measures are expected to increase considerably the level of unemployment, already about 7%. The government has included an "employment plan" of DKr 5.5 billion, an increase of DKr 1 billion over that proposed in the Easter package. Some DKr 2.5 billion of this would be spent on direct support to industry, of which DKr 1.2 billion would take the form of tax allowances for companies that maintain employment.

France: <u>Paris Weighs Easing of Exchange Curbs</u>

A partial loosening of France's system of foreign exchange controls, either this year or next, seems possible following a May 7 press conference given by Economics Minister René Monory. Rumors of such a move have been strengthened by the fact that the Economics Ministry was known to have commissioned and received a report on its likely effects from Claude Pierre-Brosselet, president of the Crédit Lyonnais bank. The report is believed to take a positive view of easing existing curbs. However, observers expect the government to take a gradual approach to any action on this matter, in the pattern created by Monory's previous measures of price liberalization.

Exchange Curbs *(contd.)*

Monory acknowledged in his press conference that plans were under discussion to partially dismantle controls in the context of measures aimed at strengthening the French commodity markets. The idea would be to allow French residents to engage in forward commodity trading on foreign markets and to attract foreign risk capital to the French commodity markets. Monory indicated that some changes could already be taken in June or July, to be followed by a larger package sometime next year.

Under the present system, forward dealing in foreign exchange is severely limited. A French exporter must ensure that bills owing to him are paid within six months, and he must convert the receipts into francs within seven days. A French importer is permitted to engage in a future contract on the foreign exchange market to cover himself at the earliest two months before his bill is due for payment. Foreign currency loans taken by French residents or companies must be immediately converted into francs, although loans of less than FF 10 million with a minimum maturity of one year need no central bank permission.

Other rules cover the profits of foreign companies' investments in France, which can be repatriated only with Banque de France permission, although that permission is in practice always given. A foreigner working in France is permitted to remit the whole of his salary (net of taxation) to a foreign country, so long as he can provide the necessary documentation. The rules limiting to FF 5,000 the amount of currency that can be taken out of France on any one journey have long been rendered ineffective by the widespread use of credit cards.

A successful liberalization of exchange controls would generally ease business conditions, it is believed, and would bolster trust in the franc. The banks calculate that they are employing 10-20% more staff than would otherwise be necessary for international business in order to handle the paperwork necessitated by the controls. Also, they feel disadvantaged in relation to their foreign competitors in not being able to give franc credits to foreigners.

Italy: Short-Time Work for 78,000 Fiat Employees

Some 78,000 of the 114,000 workers at Fiat, Italy's No. 1 private employer, are to be laid off for seven days between June 13 and July 25. By sending its workers to the unemployment insurance offices for those days, Fiat claims it will save 50 billion lire in wages and reduce its inventories by 30,000 units, equivalent to approximately 250 billion lire in capital investment. This is enough, says Fiat, to finance half the cost of launching a new model. Export sales cover about half of Fiat's production, and management claims that a falloff in European and American sales and the Japanese competition are responsible for the

Fiat
(contd.)

need to schedule short-time work. Plants producing new models sold mainly on the domestic market will remain at normal levels of production. Fiat still has longer delivery times in its own domestic market than its competitors but is reporting serious losses and admits that sales this year will be about 5-10% down on 1979.

Both the trade unions and the government were surprised and alarmed by the sudden announcement, which followed previous complaints by Fiat over the difficulty of satisfying demand. The condition of the Italian auto industry is often seen as an early warning indicator of the state of the economy as a whole. The trade unions, for their part, believe that Fiat may have ulterior motives in announcing the layoffs at this time, which happens to be a tense phase of the annual contract negotiations. The government shares these suspicions, since the Fiat management is known to be upset at Rome's apparent intention to allow Japan's Nissan to conclude an extensive cooperation agreement with ailing Alfa Romeo, the state-owned car maker. Fiat claims that this will unnecessarily provide the Japanese with an entry into the Italian market.

Sweden:
Pay Settlement Seen as Costly for Economy

The return of labor peace in Sweden, following a settlement involving wage cost increases of 10-12%, comes at a high price for the country's public finances and the general economy. According to Finance Ministry estimates, the t[illegible] payers must come up with an additional SKr 9 billion this year to cover the 7.3% pay raise negotiated for the public-sector employees. It is exactly this sum that must be saved in the 1980-81 budget year (beginning on July 1) if the proposed deficit of SKr 58 billion is not to grow any further. The employees in private industry, whose number is smaller than those in the public sector, won increases averaging 6.8%

The settlement on May 11 came after six days of crippling strikes and lockouts involving more than 800,000 workers in Sweden's worst labor conflict ever. The SAF employers' federation finally accepted a compromise proposal advanced by a mediation commission, but only after a fervent appeal by Premier Thorbjörn Fälldin and his cabinet. However, SAF boss Curt Nicolin predicted that the costly settlement would mean a weakening of the competitiveness of Swedish industry, higher inflation, and a growing foreign debt and that the government eventually would be held responsible for this.

Common Market Reports

EUROMARKET NEWS

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Community: Energy Savings Targets Set for 1980s

The Community hopes to reduce oil consumption over the next ten years so that by 1990 oil would take up only 40% of primary energy consumption. In a resolution approved in substance on May 13 by the Council of Ministers, several objectives have been established. The Member States have committed themselves to reducing their dependence on imported energy to 50%; to do this they are to lower to 0.8 the ratio between the growth rate of energy consumption and the GNP growth rate, limit oil consumption, and not import more oil in 1980 than was imported in 1978 (472 million tons by the entire Community).

The Council's action was taken on the basis of a Commission report on the energy objectives for 1990. In this report the Commission stresses its belief that the Community must quickly reduce its dependence on oil, conserve more energy, change the energy consumption pattern (more use of coal in place of oil), and invest heavily in the development of alternative energy sources.

Statistics for the first quarter 1980 indicate that oil imports for the entire year should be comfortably inside the 472 million-ton target because of the general economic slowdown, relatively high stockpiles, and, to some degree, the effectiveness of energy conservation policies

This issue is in two parts. This is Part I.

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Energy Savings *(contd.)*

of several Member States. Not all States have enacted effective policies to conserve energy, according to Commission officials. Therefore the Council resolution calls on the Member States to enact or to adapt their programs so that by the end of 1980 each state has an energy conservation program covering all main sectors of energy consumption.

The Member States have also been asked to enact appropriate energy pricing policies. Guidelines attached to the resolution lay down the principles for energy pricing and describe measures to encourage the rational use of energy in homes through improved insulation requirements, standards and control of heating systems servicing, and individual metering and billing for apartment dwellers. There are also rules and guidelines for energy savings in industry, such as requiring companies consuming large volumes of energy to establish energy consumption accounts. Also recommended are measures to ensure that new vehicles sold within the EEC meet the voluntary fuel consumption targets announced by Common Market-based car manufacturers.

Commission officials realize that moving away from oil as a source of generating electricity will be difficult, especially for Ireland and Italy, whose oil consumption for that purpose lies at 49% and 44.7%, respectively. Germany and France are much better off in this respect because of their large coal deposits (3.7% and 4.6%). Even so, efforts are being made in both states to use more domestic coal for electricity production.

Budget Row Raises Spending Problems

The lack of a Community budget and the resulting restricted emergency appropriation procedure has prompted the Commission to take action in order to forestall a possible financial bottleneck later in the year. The EC executive is seeking emergency funds of 1 billion units of account as well as approval from the Council and Parliament to transfer money available from one heading to another.

Last December the European Parliament rejected the draft budget. Without the EP's budget endorsement, the Community (in fact, the Commission) each month may not spend more than a sum equal to one-twelfth of the previous year's budget *(Common Market Reports, Par. 5025)*. Since current farm policy expenditures have been running 14% ahead of the January-May levels of the 1979 budget, the funds needed for individual farm sectors are expected to be depleted by September or October unless the 1980 budget is approved soon or the Commission is at least allowed to rearrange financial spending within the emergency procedure. The Commission already has received borrowing authority from the Council and the EP so as to cope with irregular farm spending.

Spending *(contd.)*

Whether the budget is approved soon depends largely on the settlement of the issue of Britain's contribution to the EC budget. The Member State governments have set May 31 as the deadline for a broad agreement on the issue, which is expected to remove London's opposition to a 5% increase in farm prices that the other eight Member States have already agreed to. This in turn could pave the way for Parliament's approval of the 1980 draft budget in June or July. Until then the Commission would have to continue the restricted spending arrangement, though with the new flexibility it hopes to have with the emergency funds and being able to switch money from one heading to another.

In Brief...

The foreign ministers of the Nine have agreed on economic sanctions against Iran in order to help secure the release of the American hostages. Approved at the ministers' meeting in Naples on May 17-18 and in effect since May 22, the sanctions include a limited trade embargo, the freezing of capital transfers, and a ban on export credits. Food and drugs are exempt from the embargo. The trade embargo does not affect contracts concluded before Nov. 4, 1979, the day the Americans were taken hostage, and new contracts are not automatically barred but require permission from the national governments. Although Britain's foreign minister, Lord Carrington, had initially supported the Naples decision, the British government, under pressure from the House of Commons, subsequently was forced to retreat by stating that it would apply the sanctions only to new contracts and not to existing ones + + + Commission lawyers consider the Danish parliament's recent action approving a $16-per-liter excise tax on imported Scotch whisky, in addition to 22% VAT and a 37.5% ad valorem duty, contrary to the Court of Justice's February judgment that found Denmark, France, Ireland, and Italy in violation of the Treaty's ban on fiscal discrimination. (The four states had discriminated against Scotch whisky in favor of domestic spirits.) British whisky exporters charge that the higher ad valorem duty would widen even more the price difference between Danish aquavit and imported Scotch. The tax on Scotch is over $2 a bottle higher than on aquavit, although the latter has a higher alcohol content. The finance ministers' meeting next month will take up the matter.

Germany: Bonn Favors Income Tax Compromise

The Schmidt administration has told members of the German Bundestag's tax committee to put aside the most controversial provisions of the proposed income tax amendments and to save those that the committee and the upper house agree on. Last October the government proposed amendments to several tax statutes. Its main thrust was a new Section 15A to the Income Tax Law (EStG) that was to limit large writeoffs by individuals in the high income brackets for

Compromise *(contd.)*

losses incurred as limited partners. These writeoffs are often stressed in advertising by partnerships seeking to attract new investors for commercial ventures with unusually high losses in the first few years. Bonn seeks to cut back this practice to the extent that individuals who incur losses as partners would be allowed to claim a deduction of not more than their share in the partnership. Government officials expect some DM 500 million in additional revenue in the fiscal years 1980 and 1981 as a result of this amendment.

All political parties represented in the lower house concur that a new Section 15A is necessary, and the upper house also supports it. However, there is disagreement over another proposed amendment that was to close what the government considers a loophole in the 1977 Corporate Tax Reform Act: the treatment as a business expense of any type of benefit granted by a company to a shareholder not entitled to the corporation tax credit or to a shareholder not fully subject to German taxes in return for making capital available to the company. The government proposed to treat the benefit like a constructive dividend, especially in the case of profits falling to silent partners in return for contributing money to a company without taking an active part in the company's management. Even more important, the same treatment would be extended to interest a company pays a shareholder for a loan.

Government officials say that the proposed amendment would mainly have affected those foreign multinational companies and domestic tax-exempt entities that take advantage of the loophole to reduce the tax burden of their German subsidiaries by granting them loans. The consideration granted in return by a domestic company for the capital it received from a foreign corporation or domestic tax-exempt entity is tax-deductible and thus not subject to corporation tax. This was to change under a proposed amendment to Section 8(3) of the Corporate Income Tax Law (KStG) because the consideration would be treated as a constructive dividend and would have been taxed accordingly.

Originally, the government had not expected a reaction against this proposed amendment, which is worded in such a way that it would go easy on the DGB, the national union federation. The assets of the federation are administered by a holding company which is entitled to a tax credit for corporation tax paid on the dividends it receives. Each of the individual unions lends the holding company its strike fund reserves in return for 12% interest. In the upper house, whose unanimous consent to the measure is necessary, the state of Bavaria has threatened to stall the entire bill unless interest payments are treated as constructive dividends. This would mean that the union holding company would have to pay DM 50 million annually in extra taxes.

Britain: Inflation Rate Doubles to 21% Within a Year

Figures just issued show that in the first 12 months since the U.K.'s Conservative government took office in May 1979 the rate of inflation has more than doubled, with a comparative escalation of wage settlements. There is mounting criticism, not only from the political Opposition, of the Thatcher administration's reliance on monetarism to solve the country's economic ills. The April figures indicate that the annual rate of inflation is now 21.8%, a boost of 3.4% over the March total and the highest in over four years, since February 1976. Thus Britain now suffers the highest rate of any EEC country, having overtaken Italy with its 20.5%, and indeed of any major industrialized nation.

The Trades Union Congress has described the latest inflation figure as a "milestone of misery," and the Chancellor of the Exchequer, Sir Geoffrey Howe, has admitted that the situation could get worse. The Chancellor predicted, however, an improvement in July, when the effect of the rises in the 1979 Budget would be discounted. Observers believe that the peak could be as high as 25%, which would be certain to influence future wage negotiations. Howe said that people cannot expect to be protected against the worldwide increase in oil prices. He pointed out that pay bargainers in competitive countries were holding their claims 3-4% below inflation rates, and he appealed for similar restraint in Britain, though he ruled out a pay freeze. A policy such as that under the previous Labour government would be "sowing the seeds of our own destruction."

Provisional figures issued by the Dept. of Employment show that the average earnings of some 21 million employees in all economic sectors rose by 20.1% in the 12 months up to March 1980. This represented an increase of 3.2% above the previous month's figures, which indicated an annual rise of 18.6%. The April figures are likely to be even higher. The 20.1% average is also the highest for more than four years and indicates that wages are keeping pace with inflation.

The latest survey by the Confederation of British Industry of wage rises in the manufacturing sector reveals that 48% of wage agreements notified since August 1979 involved increases of 15% or less, and 42% resulted in settlements of between 16% and 20%. The remaining 10% were in excess of these figures.

Belgium: New Government Concentrates on Budget, Taxes

Belgian Prime Minister Wilfried Martens has succeeded in forming a new coalition government including representatives of the Christian Democratic, Liberal and Socialist parties. Between them, the three parties control 177 of the 212 seats in Parliament, but each is itself divided in-

Government *(contd.)*

to a Flemish and a Walloon faction along language lines. The Liberals were not a partner in Martens' previous government. The first tasks which the new government intends to tackle are the implementation of Martens' budget savings plans and the passage of the state reform compromise agreed between the coalition parties. Martens wants both measures passed by Parliament before it breaks for the summer recess in mid-July.

The Liberals had made a substantial reduction of direct taxation in favor of indirect taxes a condition of their entry into the government. As a result, income tax for married working couples is to be lowered, and a series of measures would reduce the tax burden on companies: 5% value-added tax charged on investment expenditures is to be cut as of July 1, the freeze on dividend taxation of new share issues would be extended until the end of 1983, and the tax on excess profits of large companies would be limited to cases where earnings amount to more than 5% of a company's equity, unless they are reinvested in Belgium, in which case they would be tax-free. The cost of these proposed tax relief measures is expected to be about BF 12 billion. The government hopes to compensate partly by raising taxes on energy consumption and luxury goods, which may bring in about BF 6 billion, as well as by an attempt to reduce tax evasion, which could generate about BF 3.5 billion in extra revenues.

At the same time the administration has raised its target for overall budget savings from BF 67 billion to BF 80 billion. The concrete form of the additional savings has not yet been worked out and is expected to be the ground for bitter battles between the austerity-minded Liberals and the Socialists. In the last few months, additional expenditures for employment-generating measures, credits for the education system, and higher debt-service costs have added BF 45.7 billion to the budget.

The issue that caused the breakup of Martens' previous government has been shelved, at least for the time being: the coalition parties have agreed to a timetable for the transfer of some fiscal responsibility to the new regional parliaments over a period of five years from 1982, and the discussion concerning the future of the metropolitan region of Brussels will be left in abeyance until 1982.

France: Social Security Costs; Farm Price Action

Stringency plans contemplated by the French government for the national health insurance system were met with a day of trade union action on May 13. The CGT and the CFDT labor federations, as well as the moderate Force ouvrière, led workers out on a one-day strike, which stopped postal deliveries, halted public transport in some cities, and prevented newspapers from appearing. The teachers' union or-

Health Costs *(contd.)*

ganized meetings in school hours. The government wants to save money and keep insurance premiums down in order to put them within reach of lower-paid workers, but the unions claim that the result will be merely the recreation of a two-class system for rich and poor. The plan would have claimants pay 5-12% of their medical costs themselves; also they would individually cover certain special risks. Doctors would be allowed to charge fees above the level for which the insurance funds will accept claims.

In other news, Paris has prepared a series of standby measures to cope with the eventuality that Britain continues to block higher farm prices at the May 28-29 meeting of the EEC agricultural ministers. The measures, which would be decided at a cabinet meeting provisionally arranged for May 30, would involve FF 5 billion of government expenditures to provide farmers with funds they would normally receive from the EEC budget. Farmers would receive refunds on VAT payments and subsidies on their loan repayments and interest, while the government would intervene in the agricultural markets.

Farmers have been vociferously demanding an increase in agricultural support prices, and Paris has promised them "at least 5%," through a change in the valuation of the "green franc." President Giscard d'Estaing has said that the government will do everything necessary to maintain the purchasing power of agricultural incomes. However, there is growing impatience, and scarcely a day goes by without new demonstrations by farmers. Spokesmen for several farmers' organizations have called for Britain's effective exclusion from EEC farm policy, and they suggested that a majority decision by the other eight EEC countries on a price increase should be implemented.

Greece: Rallis Succeeds Karamanlis as Prime Minister

Following the election of Constantine Karamanlis as the new president of Greece, the parliamentary group of the governing New Democracy party has elected former foreign minister Georgios Rallis as its new leader and as the country's new prime minister. Most of the positions in Rallis' cabinet remain unchanged, but all three ministers dealing with economic affairs have been replaced. The new coordination minister is Ioannis Boutos, a close associate of Rallis. Miltiadis Evert has been named finance minister, while Stavros Dimas takes over the trade ministry. Commentators have expressed the hope that there will now be a liberalization of Greece's strict system of price and profit regulations, and an easing of the prevailing credit curbs. On the other hand, the business community recognizes the government's responsibilities in fighting inflation and containing the foreign trade deficits as well as industry's responsibility for more investment commitments.

EURO COMPANY SCENE

Grand Metropolitan/ Liggett

After an extended takeover battle, Britain's Grand Metropolitan, the hotel group, has finally succeeded in its bid for Liggett Group, the U.S. tobacco, food, and beverage company. The Liggett management recommended that the company's shareholders accept Grand Met's most recent offer of $69 a share, or nearly $575 million cash, which compared to a $415-million offer first made in April. Grand Met already owns 9.5% of Liggett. (In the meantime, Standard Brands, another bidder for Liggett, said it was withdrawing from the takeover contest.) In an effort to beat off Grand Met's advances, Liggett earlier had sold off for $97.5 million in cash its Austin Nichols subsidiary to Pernod Ricard of France.

Imperial/ Howard Johnson

At the same time, the U.K.'s Imperial Group (tobacco, food, brewing) has announced it will vigorously pursue its efforts to acquire the United States' Howard Johnson. Imperial has made a $630-million bid for the American company, and a recent review of the proposed deal - including the problem of liquor license transfers - convinced the British company that it should go ahead with the acquisition.

Rolls-Royce/ Pratt & Whitney

The U.K.'s state-owned aero engine company Rolls-Royce and the United States' Pratt & Whitney have signed a joint agreement for the development and production of the Pegas[us] vectored thrust engine used in the advanced AV-8B version of the Harrier jump-jet fighter. British sources said the deal eventually could be worth £660 million for 400 engine units, of which Rolls-Royce would produce 75%.

Bertelsmann/ Bantam/ IFI

Germany's largest media concern, Bertelsmann, is raising its stake in Bantam Books, the New York-based publishing company, from 51% to 100% as of July. The transaction has been agreed with IFI International, a Luxembourg financial holding controlled by Italy's Agnelli family. Bantam reportedly has annual sales of about $100 million.

Zürich/ Jefferson Life

The Swiss insurer Zürich Versicherungsgesellschaft has acquired 71,500 or 5.47% of the outstanding common shares of Jefferson National Life Insurance Co., Indianapolis.

Levi Strauss

Levi Strauss, the U.S. clothing manufacturer, will provide 1,000 new jobs in Scotland by the end of 1981. With the assistance of the Scottish Development Agency, a £1-million extension is being built at Levi's Dundee plant, and the SDA is also modernizing a plant at Inchinnan, which has been sold to Levi for £750,000. The company is at present employing 1,400 in Scotland.

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Community: Problems Arise in Debate on Group Accounts

The Council's working group deliberating the proposed seventh directive on group accounts is struggling to find solutions to three major problems: what kind of company would be covered, the extent of subgroup consolidated annual accounts, and how parent companies established outside the Common Market should be treated. The measure would introduce mandatory consolidation rules for the Member States that do not have them, and it would coordinate existing consolidated accounting provisions *(Common Market Reports, Par. 1407)*. Also, the EEC accounting requirements would cover not only multinational companies established in the Common Market but also those with a subsidiary there and yet headquartered outside. The seventh draft directive would extend the Council's Fourth Directive on annual accounts of certain companies *(Common Market Reports, Par. 1391)*.

The working group has agreed to forget about the proposed definition of group enterprises and to leave this to the separate measure the Commission has announced for the second half of the year. There is disagreement, however, about what kind of company should be required to draw up consolidated accounts. The U.K. says any company that has legal power to control another company should be covered.

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Group Accounts *(contd.)*

(This could be a company that owned only 30% of the stock of another, widely held corporation.) It believes the directive should solely benefit shareholders of a company that controls another. France and Germany maintain the purpose of the measure is to x-ray corporations not only for the benefit of the shareholders but also for the public at large; they say any company that exercises effective control over other entities, no matter how it is done, should have to prepare consolidated accounts.

France and Germany want to broaden the scope of the measure so that not just entities but also partnerships and even individuals controlling a group of companies should be required to draw up consolidated accounts (the present draft covers only entities). The U.K. opposes this broadened scope because in its view the seventh draft directive is no more than an extension of the Fourth Directive, which applies only to companies; to broaden the measure would stray off the legal path set by the Fourth Directive.

Most important, however, is the problem concerning the treatment of companies headquartered outside the EEC and with subsidiaries within the Common Market. Where several dependent companies are dominated by a company outside the EEC, the revised draft would allow that consolidated accounts be prepared for the group as a whole, provided certain other information is given with respect to the group's activities within the Community. Still, it is the requirement calling on all companies operating in the EEC to draw up special consolidated accounts for their subsidiaries operating within the EEC that has been criticized most, especially by U.S., Swiss and Swedish multinationals with subsidiaries in the EEC. Critics say that consolidated accounting limited to operations within the EEC would be of little value to shareholders of the parent company. There are also doubts about the legal right to impose such a requirement on companies outside the Common Market. The Council is under pressure to make even more changes in the proposed consolidated accounting requirements.

Early Success of Environment Policy Reported

The Community's environmental policy has achieved substantial results in a very short period of time, according to the Commission. In a report addressed to the Council of Ministers on the progress made so far with the 1973 environmental action program *(Common Market Reports, Par. 3315)*, the EC executive stresses the fact that the main achievement was in the legislative field.

In less than seven years the Community (primarily the Council of Ministers but also the Commission) has adopted 58 pieces of legislation in the environmental sector, among them 15 on water pollution, ten on air pollution, seven on waste, eight on noise abatement, and four on the protection of land and natural resources. Besides legislating on its

Environment *(contd.)*

own, the Community is a contracting party to, and actively participates in, the implementation of international agreements protecting the sea against pollution, saving animals and plants threatened with extinction, and combating transfrontier pollution.

Legislation is not the only field of action. Since 1973 the Commission has been instrumental in holding symposia on environmental issues, and the results have entered into legislative proposals or are still under consideration. Research on improving the environment is being carried out and paid for by the Commission, which either enters into contracts with research institutes or coordinates national research. The Commission has been involved in various campaigns to make the public more aware of environmental issues.

The EEC's environmental policy helps define a common approach and common objectives and principles of the Member States' policies, and it harmonizes national policies whenever these might conflict with other principles such as free trade among Member States. The Commission says the small size of the staff it has for environmental protection is largely to blame for the fact that it has fallen behind in the preparatory scientific and legislative work projected in the EEC program, especially on water pollution; it even has difficulties in fulfilling the obligations taken on with enacted measures. Economic problems in the Member States are further slowing the environmental drive, according to the Commission, even though the overall short-term impact of environmental legislation on employment seems to have been positive since additional jobs were created, and this has resulted in gains as well as losses from region to region and industry to industry.

In Brief...

The Commission is preparing an amendment to the 1969 draft directive on tax treatment of international mergers, hoping to remove the remaining obstacles to Council adoption. Both the Dutch and German governments are holding out against adoption. They fear that the measure, designed to remove some of the tax obstacles to mergers involving companies from different Member States, might be used as a way of escaping application of national law (especially that on taxation and labor's say in management) by moving the head office of the merged entity outside their respective countries. If this happens, the planned amendment would allow the particular Member State to ask the Commission for authority to take the necessary measures to correct the situation *(Common Market Reports, Par. 3214)* + + + The Commission has proposed an extension of the existing energy saving labeling rule to refrigerators, freezers, washing machines, and dishwashers. The first such measure, which covered electric ovens, was adopted by the Council in May

In Brief *(contd.)*

1979 + + + Austria has asked the Community for financial aid to improve the transalpine highway from Linz through Graz to Maribor, Yugoslavia. The highway will have to handle more traffic in the coming decades, especially when the new EEC-Yugoslav cooperation agreement results in additional trade and Greece has joined the EEC. The other major route south, Innsbruck-Klagenfurt-Ljubljana, can barely cope with the traffic volume even now, especially during vacation periods. Vienna wants a grant of $100 million and an additional $250 million in interest subsidies. Brussels observers say the Austrians do not have much chance of success, not only because of EC budget limitations but also because Austria in 1978 introduced a unilateral road tax for trucks to pay for the maintenance of highways that, for the most part, are used for international north-south traffic.

Germany: Bundestag OKs Amended Tax Relief Measure

The German Bundestag has passed the government's omnibus tax bill that would amend and simplify many provisions of major tax statutes. Following the unanimous recommendation of its tax committee, the lower house wrote several improvements into the proposal, which now goes to the upper house *(Doing Business in Europe, Par. 40,017)*.

Most of the amendments would benefit individual taxpayers, but several would work to the advantage of businesses. One amendment would expand the rules allowing deduction of pollution control investments; present law permits taxpayers to deduct 60% of the investment in the first year and 10% in each of the following four years so long as the asset is used 90% of the time for pollution control purposes *(Doing Business in Europe, Par. 23,549)*. Under the proposed amendment, the taxpayer could make the deduction if the asset is used only up to 70% for pollution control. While the government's original bill called for an extension of the rules until Jan. 1, 1989, the Bundestag followed the tax committee's suggestion and voted to extend the measure until Jan. 1, 1991. This amendment would cost Bonn roughly DM 350 million annually.

Important for both individual and corporate taxpayers would be an amendment allowing them to deduct contributions to educational organizations up to a maximum of 10% instead of the 5% allowed under current law. The tax committee had recommended doubling the DM 600 maximum that taxpayers may currently deduct for contributions to political parties; the Bundestag added another DM 600, which could bring the maximum to DM 1,800. Married taxpayers could claim a maximum of DM 3,600 on their joint return.

Both resident companies and nonresident individuals would be allowed an exemption of DM 20,000 from their net worth tax; the present exemption is only half that amount.

Tax Relief *(contd.)*

Several thousand clubs would no longer have to file net worth tax returns if the proposal becomes law.

Important for all taxpayers would be an amendment to the Fiscal Code that would obligate the government to pay interest on overcharged taxes and tax refunds. This provision also was written into the bill by the Bundestag on the tax committee's recommendation. Further, taxpayers would be compensated for the expenses incurred in fighting an erroneous assessment, including the fee to the tax adviser to have the assessment set aside, but only if it can be shown that the tax authorities acted deliberately. Since this will be almost impossible to prove, the amendment would mean de-facto immunity for the government against such damage suits.

Britain: Labor Chief Urges Trades Union Bank

The U.K.'s General & Municipal Workers' Union has put forward the idea of a trades union bank, similar to those existing in West Germany and Israel. The GMWU is at present conducting a feasibility study regarding the legal and financial implications of such a move. It is hoped that the initial inquiries will be completed by September, so that the proposal can be put before the annual Trades Union Congress that month.

As a result of the current high interest rates, the major clearing banks in Britain have been reporting record profits, and the GMWU's general secretary, David Basnett, would like unions to profit from interest earnings. The proposal further would facilitate loans by unions, and the bank would hold certain amounts on short call if required to meet the expenses of strikes. This would be particularly relevant in view of the government's proposed measures to withhold certain social security benefits from strikers. Basnett said the bank would hope to attract investments from the nationalized industries and pension funds. He stressed the need to ensure that as large a proportion as possible of the very large amounts of money controlled by the pension funds should be used for the rejuvenation and development of British industry. There is also a widespread view that unions should have a greater degree of independent control over their financial resources.

Basnett emphasized that a trades union bank would not be in competition with the commercial banks - for instance, by offering lower interest rates on loans - and it was unlikely that the bank would cater to private customers. Concerning the bank's reserves, he said that the smaller trades union banks which already exist would form a basis, together with his own union's reserves of some £30 million. There were 110 unions, with 12 million members, affiliated with the TUC, and he did not visualize any problems in this respect. "By getting together, unions can all use their

Union Bank *(contd.)*

money more effectively." However, it was unlikely that such a bank could be established for five to six years, and the reactions of the other unions would have yet to be gauged.

Italy: Inflation May Force Lira Devaluation

In separate reports to the Senate budget and finance committee, Italian Finance Minister Filippo Pandolfi and the governor of the Bank of Italy, Carlo Ciampi, have warned that, unless the present inflationary trend in the economy is reversed, the lira will have to be devalued. Although the Bank of Italy, especially, has opposed all talk of devaluation until now, the way in which Ciampi apparently deliberately raised the specter of a parity change has prompted speculation about an upcoming official change of policy.

Pandolfi has pointed out that, although the parity of the lira in the European Monetary System has remained unchanged since the latter's startup 14 months ago, this cannot go on for long if the Italian inflation rate continues at its present level of over 22%, more than double the EEC average. Both Pandolfi and Ciampi urged a policy of boosting industrial productivity as the means by which to reduce inflation and increase competitiveness. The last months have shown a growing loss of competitiveness by the larger Italian exporters such as the automobile producers. Ciampi additionally has stressed the need for a resolute governm[ent] policy to reduce state expenditures and called for trade [un]ion moderation in wage bargaining.

Discussions between the government and the trade unions have, in fact, been revived in the last few weeks, and at a recent meeting the unions agreed to pursue more moderate wage goals in the context of the medium-term economic plan that the government plans to present after the June 8 regional elections. In return, Rome promised to raise family allowances and offered some other concessions.

Italy now has an estimated 45 billion lire of foreign exchange and gold reserves, giving the central bank a great deal of potential strength in fighting off speculative attacks on the lira. Even with a growing payments deficit, reserves have remained high, since the deficit has been counterbalanced by inflows of funds into the commercial banking system. The payments deficit reached 2,757 billion lire in the first four months of 1980, compared with a surplus of 1,257 billion lire for the same period last year. While in '79 the oil deficit was balanced by a surplus on other trade, this year not only is the oil deficit much larger (3,439 billion lire in the first quarter) but the balance of trade excluding oil is now also in deficit.

Despite such problems, the slowdown of the Italian economy predicted since the end of last year has yet to materialize. The expected drop in export demand has been offset by the increasing strength of the domestic market, part-

Devaluation (contd.)

ly buoyed by consumers' inflationary expectations, but based just as much on a wide-ranging investment boom, which is now expected to continue at least until the end of the summer.

Austria: Pro-Nuclear Forces Renew Their Drive

With the launching of a new popular initiative to overturn the "no" verdict of the November 1978 referendum on nuclear power, it seems possible that Austria's single nuclear power plant at Zwentendorf may one day be commissioned after all. Supporters of nuclear power in Austria have taken fresh heart from the latest poll, which shows that 58% of the voters would back A-power if another referendum were now held. In 1978, some 50.5% had opposed nuclear energy.

Supported by the trade unions and parts of industry, the pro-nuclear organizations have started to collect the 200,000 signatures needed for a petition to the lower house of Parliament to overturn the law prohibiting the use of nuclear energy for electricity generation in Austria. Chancellor Bruno Kreisky previously said that he would permit the law to be changed only on the basis of a two-thirds parliamentary majority as well as a new referendum. One of the reasons why Kreisky would insist on a two-thirds majority appears to be his aim to force the opposition Conservatives, the People's Party, which until now have remained essentially uncommitted on the nuclear question, into a split vote in the lower house.

The deputy chairman of the governing Socialist Party recently suggested that one could not expect a decision in Parliament until the end of the year, and then there might be a new referendum in March next year. Even if the result of the referendum favored nuclear power, it would still take another two years until the Zwentendorf plant was ready to deliver electricity to the national grid. Meanwhile, the anti-nuclear organizations are also active, planning to collect 200,000 signatures in order to prevent a new referendum.

The Zwentendorf plant originally cost 8 billion schillings but interest payments and other costs have probably added another 2 billion schillings over the years. One factor encouraging a change in popular attitude to nuclear power is the rapid rise of the Austrian fuel import bill, which is expected to go up by 8 billion to 44 billion schillings this year.

Sweden: Port Strikes Hurt Export Industries

Strikes afflicting Sweden's ports since May 12 caused losses of more than SKr 5 billion to the country's export industries within the first two weeks. According to the state Export Council, the labor conflict affected nearly two-thirds of all exports, and many companies were fearful of losing their foreign customers. Volvo, the auto maker and

Port Strikes
(contd.)

Sweden's largest industrial company, shifted shipments to Norwegian ports and thereby was able to postpone previously announced layoffs. Other industries, however - including pulp and paper producers and steel makers - were forced to schedule short-time work or temporary closures.

The strikes were organized by the Communist-influenced dockworkers' union, with about 2,000 members, which eight years ago had broken with the transport workers' union and thus also separated from the LO, the national labor federation. The dockworkers last month had refused the compromise settlement accepted by some 800,000 Swedish employees, who had returned to work on May 12 after ten days of strikes and lockouts affecting virtually all sectors. They are demanding pay increases of some 30% as well as official recognition as a separate bargaining partner. Specifically the latter demand is being opposed by the other unions organized in the LO. The government has been trying to mediate in this dispute, with its severe economic consequences. Some observers said the only hope for a quick end to the conflict was the "financial ruin" of the dockworkers' union.

Greece: New Premier Sets Economic Policy Goals

In his inaugural address before Parliament, Greece's new prime minister, Giorgios Rallis, has announced that the government's economic policy would be more liberal in the future and that private initiative and enterprise would play a greater role than in the past. In keeping with this policy, state intervention in the economy would be limited and the strengthening of the free market forces would be encouraged. The government would emphasize rapid economic development, while seeking to protect the relative stability of the currency.

In combating inflation, Rallis said, Athens would also pursue a more liberal and market-oriented course. The aim will be to achieve greater economic stability by more intensive promotion of production and improvements of productivity. (Commentators said this could indicate that the government is shifting away from its previous policy of stringent price controls, which has not prevented the inflation rate from approaching 20% last year and from soaring to more than 30% in annual terms in the last two quarters.)

Among the concrete measures to be prepared by the new administration, Rallis said, would be a reduction of income tax tariffs and a raise in tax-free allowances, more equitable taxation of real property, the gradual dropping of controls on bank interest rates, and the creation of a free foreign exchange market in Greece.

Common Market Reports

EUROMARKET NEWS

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Community: Settlement of Farm Price, Budget Issues

The year-long crisis over the British contributions to the EC budget was apparently resolved when the foreign ministers of the nine Member States reached a compromise on May 30: Britain's contributions for 1980 and '81 will be cut by 2.5 billion units of account (£ 1.6 billion), and for 1982 the U.K. has been assured a reduction of 1.4 billion UA. Should Britain's net contributions exceed the Commission's conservative estimate, London could count on additional relief. Net contributions are calculated according to what a State pays into the budget via customs duties and 1% VAT revenue minus what it receives back in farm price support money, regional development aid, and other grants.

The compromise was possible because the other States, especially Germany and France, assumed additional financial obligations. In Bonn, this even led to a brief crisis within the government. However, German officials said that rescuing the Common Market from yet another severe setback and perhaps even breakup is worth the additional DM 2.6 billion that Bonn will have to pay for 1980 and 1981. Since Britain made the compromise in the budget dispute a condition for agreeing to a 5% price increase for agricultural commodities, and France threatened to go ahead on its own, the risk of a breakup could not be ruled out entirely.

As predicted by most Brussels observers, the Commis-

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Settlement *(contd.)*

sion did not succeed with its ambitious proposals to contain the soaring costs of the CAP, but it did convince the Council of Ministers to take at least several modest steps in that direction. Most important among them is the agreement to raise the milk levy on excess milk production from the current 0.5% to 1.5%, effective June 1. As of 1981, farmers who contribute heavily to the milk surplus and the costly price support system, with its butter and milk powder mountains, must pay for the added costs incurred in marketing surplus milk. Farmers who sell less than 60,000 liters annually will be exempt from paying the levy. The Commission's proposal to suspend price intervention on the common beef market was postponed, but a positive decision is expected before the end of the year.

Finally, the compromise also included a settlement of the lengthy "lamb war" between the U.K. and France. This dispute arose over cheap British lamb and mutton exports to France and Paris' subsequent import ban, later changed to a nondiscriminatory quota system. France lost before the European Court of Justice (judgment of Sept. 25, 1979; Case No. 232/78) and made compliance with that judgment dependent on the establishment of a common lamb and mutton market organization, which would largely benefit French farmers because of high price levels for lamb and mutton. France seems to have obtained what it wanted: such an organization is to be introduced, and all the States will have to contribute to it.

<u>Export Credits to Cost More After July 1</u>

Starting July 1, the EEC Member States as well as the United States, Japan, and Canada will be required to charge more for credits granted to finance exports by domestic firms. The minimum interest rates will go up by 0.75% for exports to industrialized and intermediate countries and by 0.25% for exports to less developed countries. This follows from a decision the OECD reached last month. The purpose is to reflect, at least to a certain extent, the worldwide rise in the cost of credit financing that has taken place since the OECD gentlemen's agreement took effect on June 30, 1977.

Under the current agreement, the minimum interest rates for export credits running between two and five years are 7.25%, regardless of the importing country's stage of economic development. If credits are extended for periods of more than five years, the interest rates may not be less than 7.5% for less developed, 7.75% for intermediate, and 8% for industrialized countries.

The changes fall considerably short of what the European Commission and several Member State governments thought would be necessary to bring the interest rates closer to reality. The decision leaves the uniform interest rates untouched and does not attempt to change the ac-

Export Credits *(contd.)*

tual cost of refinancing any credit; these costs differ substantially, depending on the currency. The Commission had proposed to the Council of Ministers two major changes: export credits should not be granted for more than five years, and the Soviet Union, East Germany, and Poland, now in the intermediate category, should be put on the list of industrialized countries. Interest rates and credit periods are based on the recipient country's GNP. Since the World Bank's most recent survey categorizes these three countries as industrialized nations, the Commission thought a change was warranted. However, mindful of possible consequences, the Council rejected the Commission's proposal to press for the two changes within the OECD.

Although the adjustments fall short of expectations, this does not mean that no changes will be forthcoming in the future. OECD experts will continue discussions about establishing interest rates that genuinely reflect current conditions on finance markets. Dec. 1, 1980, has been set as the deadline for an agreement on the adjustments, but Brussels observers doubt it will be met.

Germany: Bonn Attacked for Disregard of Tax Rulings

Tax advisers and members of Parliament have often criticized what they term the German government's frequent practice of disregarding decisions of the Supreme Tax Court. Now the president of the high tax court has joined the ranks of critics. His comments were provoked by the federal finance minister's recent letter to the 11 state finance ministers, which in effect said they need not apply the Court's April 1979 decision on turnover tax treatment of cars that auto workers may buy from their employers each year at a substantial discount.

The case involved one of roughly 70,000 Volkswagen workers who buy a new car each year at a rebate of 16-19%. The man sold the car after one year and charged the buyer 11% value-added tax on top of the price of DM 3,604. The DM 396 VAT appeared on the invoice as a separate item. The worker tried to escape paying DM 396 to the tax office, claiming he was entitled to deduct the amount just as any businessman could deduct from his tax liability the VAT invoiced to him - so-called prior VAT *(Doing Business in Europe, Par. 23,375)*. The tax office denied the claim. Before the Supreme Tax Court the employee argued that since he had been selling a car every year, he could be considered an entrepreneur within the meaning of the VAT Law. Even so, the high court sided with the tax office: the employee acted as an entrepreneur when selling the cars but not when buying them; in the latter instance he acted as a private person and therefore could not deduct prior VAT.

Application of the decision would have meant that the tax offices would have to treat as small businessmen the

Tax Rulings
(contd.)

150,000 German automobile workers who buy a new car each year and sell it 12 months later. Since small businesses with annual sales under DM 60,000 pay only 4% VAT and, moreover, are entitled to a DM 12,000 exemption, the high court decision would have affected only those employees who buy expensive cars. The federal and state finance ministers decided to disregard the decision in practice because it would bring little revenue and cause a lot of work.

Although the taxpayer will benefit in this instance because the decision will not be applied in similar situations, critics say there were other court cases that for the most part went against the government and which were disregarded because of a letter addressed to the state finance ministers. For the critics, including the president of the Supreme Tax Court, a principle is at stake. In any democracy marked by the separation of the three branches of government, the executive branch is supposed to be controlled by both Parliament and the judiciary. This principle no longer works when the executive branch ignores the control work of the courts, the critics say.

Finance ministry officials in Bonn have given several reasons for ignoring decisions. One is that the Supreme Tax Court occasionally strays and gives interpretations of individual provisions that cannot be reconciled with the working of these provisions or the lawmakers' intentions. More emphasis is placed on the argument that there is nothing in the law attaching an effect to any supreme court judgment that would bind the government to observe the judgment in similar cases as well. Here the critics respond that every supreme court's function is to develop general principles of law that lower courts and administrative authorities must observe in similar cases. The other supreme courts are generally successful in that lower civil, labor, administrative and social security courts and the administrative authorities follow their interpretation and line of thinking. However, the Supreme Tax Court's efforts in this direction are often defeated by the government's disregard, critics charge.

Netherlands: Clampdown on Illegal Alien Workers

Holland's new Aliens Law, which aims to eliminate the previously thriving black market in illegal foreign labor, came into full force on May 27, ending a short transitional period during which some illegal foreign workers were able to regularize their status. Now any firms employing foreign workers who do not have valid papers will be subject to fines of up to 10,000 guilders; the law even envisages prison sentences and closure of the offending firm in severe cases. For the workers, the penalty is simply deportation. Also, all firms with more than 20 employees are now effectively barred from employing new, non-EEC labor.

Alien Workers *(contd.)*

During the transitional period, an illegal foreign worker who had worked for the same employer for the entire period of Jan. 1, 1978, to Oct. 31, 1979, and had paid tax and social security contributions, could apply for a work permit and legalize his position. In Amsterdam alone, 2,500 workers are known to have followed this procedure since early May, when Social Affairs Minister Albeda introduced the transitional period in response to protests at the hardship effects of the Aliens Law.

On the other hand, however, thousands of illegal immigrants are believed to have been dismissed from their jobs by employers fearful of suffering heavy fines. The police authorities have launched a search for illegal aliens in both factories and residential areas, prompting protests against an alleged "witch hunt," and some illegal immigrants have taken refuge in churches under the Netherlands' ancient right of asylum. The total number of illegal foreign workers is unknown but is estimated at between 20,000 and 25,000. A survey recently showed that fully one-third of them receive less than half the minimum wage, while a similar proportion work over 50 hours per week but do not receive overtime pay.

Both trade unions and employers oppose the government's hard-line approach and have called for a more generous arrangement. The Hague, however, fears a repeat of the 1975 experience, when an amnesty for 15,000 illegal foreigners merely encouraged more aliens to enter the country illegally in the hope of benefiting from a later amnesty. Ironically, many Dutch industries are suffering from a drastic labor shortage in lower grades of employment which the 200,000 Dutch unemployed refuse to accept. Employers are often caught between the conflicting interests of the trade unions, which refuse to allow pay increases for low-grade jobs to prevent the erosion of differentials, and the government, which refuses to allow the employment of new foreign labor at lower rates of pay.

Switzerland: Plan for 5% Tax on Fiduciary Bank Deposits

Within the framework of its budget savings packet, the Swiss government will present to Parliament this month a proposal for the imposition of a 5% anticipatory tax on interest paid on fiduciary bank deposits, i.e., deposits maintained by Swiss banks in their own name but at the customers' own risk and used for reinvestments on the latter's behalf in international money and security markets. Revenue from this tax would be estimated at SF 120-140 million annually. Income from fiduciary deposits currently is not subject to the Swiss withholding tax of 35% on securities *(Doing Business in Europe, Par. 29,361)*.

Another motive for the proposed tax is Bern's concern over the rapid proliferation of such deposits, whose total

Fiduciary Tax *(contd.)*

last year rose by 43% to SF 49 billion and by an annual rate of 100% in the first quarter of 1980. The National Bank, for one, has been having doubts about the ability of the commercial banks to cope with this large volume. Generally, the deposits are in foreign currencies, are reinvested outside Switzerland via foreign banks, and do not enter into Swiss bank balances. They are now said to exceed the total foreign liabilities reflected in Swiss bank balance sheets.

The Swiss Bankers' Association strongly opposes the proposed "bank customer tax" *(Bankkundensteuer)*, saying that it would simply cause these funds to be diverted elsewhere - for instance, to Swiss banking subsidiaries in London or Luxembourg. The Association also questioned the legality and international propriety of such a tax, since neither of the two main parties in fiduciary transactions (the deposit holder/creditor and the foreign bank/debtor) is normally domiciled in Switzerland. This precondition of domicile is the basis of withholding taxation not only in Switzerland but in all countries, according to the Association, and a deviation from it would create "a unique situation worldwide."

The resistance of the financial community to a fiduciary tax should make it difficult for the government and the Conservative parties to pursue this project, which is being sponsored by the Social Democrats and the Social Democrat finance minister. The latter believe such a tax is necessary in order to "sell" to the electorate the proposal of subjecting electricity and natural gas to additional (turnover) taxation, the details of which are yet to be worked out.

In the meantime, the government has scrapped finance ministry plans for levying a withholding tax of about 5% on Swiss franc-denominated foreign bond issues and medium-term placements.

Portugal: Investment Law Draft; Veto of Reprivatization

The Lisbon government has put before Parliament the draft of a new investment law which would put foreign and domestic private investment in Portugal on an equal footing and extend tax incentives at present only applicable to very large foreign investments to a much broader range of investments in manufacturing industry, mining, and the fisheries. Streamlined screening of projects, centralized in the finance ministry, is intended to remove administrative obstructions to foreign investment, while reductions in corporate, industry and property taxes as well as government cash grants are to draw investment into priority sectors. Lisbon is expected to designate priority development areas in the context of the preparations for Portugal's entry into the EEC.

Investment Law *(contd.)*

In other news less promising for foreign investment, the Revolutionary Council has for the third time in two months vetoed the government's proposals to reopen for private business some sectors of the economy such as banking and insurance. The May 21 decision of the Council appears all the more uncompromising in light of the fact that the government had already watered down its proposal by excluding private entrepreneurs from strategic industries like steel, armaments, and petrochemicals. In addition, the Constitutional Commission, which advises the Council on legal matters, had recommended acceptance of the government's proposals. After the veto, the center-right government of Premier Francesco Sa Carneiro decided to give up further attempts to push through the plan until after the October elections. Should the government gain a sufficient majority at that time, it would be possible to change the socialist constitution, which describes the 1974-75 nationalizations as "the irreversible conquests of the revolution."

Norway: Oil Revenues Bring Payments Surplus

The Norwegian government's revised budget estimates for 1980 predict a NKr 7.3-billion payments surplus for the year. Only last October Oslo forecast a NKr 1.8-billion shortfall, based on a NKr 12-billion trade surplus and a NKr 13.8-billion deficit on the balance of interest and contributions. The latter is mainly a reflection of the cost of servicing Norway's very large foreign debt, which reached NKr 105 billion (over 45% of GNP) at the end of 1979. Now, however, the trade surplus is expected to total NKr 20.5 billion because of an increase of $7 per barrel in the price of North Sea oil since last fall as well as accelerated oil extraction. The resulting increase in Norway's oil revenues from NKr 34 billion to 45 billion will not only turn the balance of payments into surplus but also replace the previously expected NKr 4.2-billion budget deficit with a NKr 4.6-billion surplus, according to official forecasts.

Nevertheless, figures for the first quarter of 1980 suggest that the government's predictions may be overly optimistic. Oil and gas exports doubled over the first quarter of 1980 to NKr 9 billion, and total exports rose by 55% to NKr 21.2 billion. However, imports also rose steeply, by 42% to NKr 20.7 billion, producing a first-quarter trade surplus of only NKr 431 million - a long way from the NKr 20-billion annual total the government expects.

Despite this, Finance Minister Ulf Sand has taken the step, described by Norwegian bankers as "startling and unprecedented," of ordering a suspension of the foreign borrowing program of the State Municipal Bank (Norges Kommunalbank), which was expected to have raised several billion kronor abroad this year. The finance minister described

Oil Revenues *(contd.)*

his move as "the first step in securing for Norway greater freedom in matters of foreign economy after the oil income started to flow." Sand became finance minister in the course of a cabinet shake-up last September after Prime Minister Odvar Nordli's Social Democratic party suffered heavy losses in local elections. Previously he was the chief economist of the Trade Union Confederation.

EURO COMPANY SCENE

U.S. Brokers in Germany

Seven U.S. broker firms represented in Germany which are engaged in commodity futures trading, either exclusively or in addition to their other business, have formed the German Commodity Association in Hamburg. It is the purpose of the group to disassociate its members from other commodity brokers of ill repute by adhering to a strict conduct code. The member firms are Bache, Conticommodity, Dean Witter, Hutton, Merrill Lynch, Shearson, and Thomson McKinnon. Other firms may eventually join the association.

RSV/ Miner Leasing/ Coal Systems

The Dutch engineering group Rijn-Schelde-Verolme (RSV) has been awarded an 800-million-guilder order for coal excavation equipment to be delivered to a U.S. mining group, Miner Leasing Corp. and Coal Systems Co., in which it also has a 25% interest. The special machinery is designed to extract "thin seam" coal for which the use of standard equipment is uneconomical.

KBB/ Mack Stores

The Dutch department store company Koninklijke Bijenkorf Beheer (KBB), plans to acquire 51% of the share capital of Mack Stores, Inc., which operates about 100 chain stores in the Carolinas, Georgia, and Virginia. The price offered is $14.25 per share. In the course of the year KBB hopes to purchase the remaining shares, which would value the transaction at 30 million guilders. In 1978-79 Mack Stores reported net earnings of $1.3 million on a turnover of $52 million.

ITT Portugal

Reports from Lisbon said that International Telephone & Telegraph (ITT) will probably close down the semiconductor division of its Portuguese subsidiary, Standard Electrica. The government reportedly has given permission for the dismissal of more than 200 workers in efforts to protect the jobs of the remaining 2,500 employees. Early last month the ITT management and the authorities apparently agreed on a financial recovery plan for the loss-ridden subsidiary, the reports said.

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Community: EC Court Defines Aliens' Rights

The European Court of Justice has held that Community law does not obligate a Member State to allow a national from another Member State to remain in its territory for the duration of an appeal brought by the national against a deportation order, provided he or she had received a fair hearing and had the opportunity to present all defense arguments (judgment of March 5, 1980; Case No. 98/79). Although in most States an appeal against a deportation order has suspensory effect, the Court held that Article 8 of Council Directive 221/64 of February 25, 1964, does not contain any specific obligation with respect to possible suspensory effects of remedies available to persons covered by the directive.

Mrs. Josette Pecastaing, a French national, went to Belgium in October 1977 and applied for a residence permit to work as a bar waitress in Liège. In May 1978 the aliens' office rejected the application for public policy reasons. It stated that she had been working in a bar with a morally suspect reputation and had been reported as a prostitute in France and Germany; she was ordered to leave Belgium within 15 days. After Mrs. Pecastaing was unsuccessful with her appeals to the aliens' office and the justice ministry, she went to court to have the deportation

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Aliens *(contd.)*

order set aside. She also filed a separate suit against the government, claiming damages for what she considered an illegal act. The Belgian court suspended proceedings and requested preliminary rulings from the European Court of Justice on the interpretation of Articles 8 and 9 of Directive 221/64 concerning the suspensory effect of actions brought against a deportation order. The Belgian court also referred to the Court of Justice's *Royer* judgment of April 8, 1976 (Case No. 48/75) in which the EC tribunal held that "deportation is permissible, save in a proven and justified emergency, only after the person concerned has exhausted all remedies available ... under Articles 8 and 9 of Directive 221/64" *(Common Market Reports, Par. 8359)*.

Article 8 provides that the person concerned shall have the same legal remedies against any decision involving entry, refusing to issue or renew a residence permit, or ordering expulsion, as are available to nationals of the State concerned with respect to acts of the administration. The Belgian court thought that the legal remedies available under Belgian law had suspensory effects, so that the person had the right to remain a resident for the duration of the proceedings. It also asked the EC tribunal whether the damage suit brought by Mrs. Pecastaing had similar effects.

The Court of Justice ruled that the only obligation Article 8 of Directive 221/64 imposes on States is to guarantee judicial protection to nonnationals that is no less favorable than that extended to their own citizens with respect to administrative acts, including, if necessary, the suspension of the acts challenged. Article 8 does not commit the States to enact legislation that would give a suspensory effect to remedies available to and lodged by nonnationals, the Court ruled. However, the Court also made it clear that there could be no discrimination in the scope and effect of remedies available to nationals and nonnationals.

Drawbacks of Lamb Market Organization

There probably would have been no settlement of the Community's most recent crisis over the U.K. contribution to the EC budget, according to observers, had it not been for a new lamb market organization. Such an organization had been demanded by France for years, had been violently opposed by Britain, and has been only reluctantly accepted by Germany. Although the new system accepted by the Council of Ministers on May 30 on a trial basis will differ regionally until uniform rules take effect in mid-1984, there is little doubt among Brussels observers that it will remain in force and will share with the other systems (governing grain, milk, beef, fruits, and wine) the same, often criticized features.

Government intervention will ensure that mutton and lamb prices within the EEC do not drop below guaranteed

Drawbacks *(contd.)*

prices. A levy imposed on low-priced imports from third countries will protect EEC sheep farmers by increasing prices to the higher EEC price level. If farmers cannot sell mutton and lamb within the Common Market because of the high guaranteed prices, the national intervention agencies will buy any quantity offered to them. If farmers choose to export their products, there will be refunds to compensate them for the loss incurred in having to sell abroad at lower prices.

The objective of any common market organization is to ensure European farmers a fair standard of living as provided in Treaty Article 39(1). However, experience with existing common market organizations, especially those for milk and beef, has shown that this objective and the others, such as ensuring that supplies reach consumers at reasonable prices, can be fulfilled only at heavy costs to the taxpayer *(Common Market Reports, Par. 405)*. It is estimated that the new system will burden the already strained budget with an additional 500 million units of account. Roughly 70% of the Community's revenue finances the common agricultural policy.

Critics fear that the new market organization for mutton and lamb will meet the same counterproductive fate that has made the common agricultural policy so costly: farmers need not worry about the supply-and-demand principle and can produce as much as they want because the intervention system not only guarantees them high prices but also absorbs any surplus. Some critics already envision new refrigeration buildings going up to store mutton and lamb surpluses, which eventually would have to be sold at a loss. This vision may not come true, however, at least not for several years, because Community farmers produce only roughly 500,000 tons of mutton and lamb annually. An additional 300,000 tons are imported to meet demand within the EEC.

Britain's sheep farmers are the most efficient ones in the Common Market: they account for about 45% of those 500,000 tons, and their prices for mutton and lamb are the lowest. French farmers account for approximately 30%, but their prices are substantially higher, which has been the cause of the now-settled "lamb war" between the U.K. and France because British low-priced mutton and lamb exports to France threatened the higher price level there.

In Brief...

The Council has adopted the Regulation on the Valuation of Goods for Customs Purposes (Official Journal No. L 134, May 31, 1980, page 1). The regulation will replace, as of July 1, the present Regulation No. 803/68 *(Common Market Reports, Pars. 314, 315)*. The measure represents the Community's legislative follow-up on obligations assumed last

In Brief *(contd.)*

year under the Multilateral GATT Agreements + + + The interim agreement between the EEC and Yugoslavia on trade and cooperation went into effect on May 30 (Official Journal No. L 131, May 27, 1980, page 1). It is designed to implement ahead of time several provisions of the cooperation agreement signed on April 2 until that agreement takes effect following ratification by the parliaments of the EEC States and Yugoslavia.

Germany: Higher Excise Tax to Meet EEC Burden?

Motorists, buyers of hard liquor, and farmers may have to pay the DM 2.54 billion that the German government has agreed to contribute in order to relieve the U.K. from its high share of financing the Community budget. Bonn plans to propose an increase in the gasoline and liquor excise taxes and a cut in fuel subsidies to farmers if its efforts to raise its share of sales tax (VAT) revenue fail. Other alternatives, such as pruning the federal budget or borrowing, are ruled out. If the government carries out its plan and Parliament approves it, the gasoline excise tax would go up from DM 0.44 to 0.47 per liter, which would generate some DM 840 million annually in additional revenue. An increase in the liquor excise tax amounting to roughly DM 0.60 per bottle of whiskey would produce some DM 400 million in revenue. A change in government support to farmers using diesel fuel in their farm equipment would produce about DM 200 million each year.

Under the existing revenue-sharing system, the federal government is entitled to 67.5% of VAT revenue; the states receive 32.5% *(Doing Business in Europe, Par. 23,393)*. The present arrangement expires at the end of the year, and for some time the federal government has tried to gain an additional percentage point (roughly DM 4 billion in terms of revenue) because of rising financial commitments at home and abroad. Aid to developing countries, emergency support to Turkey, and now the new burden to solve the Community crisis are given as the latest examples.

Although, under the German constitution, foreign policy is a matter for the federal government, political leaders in Bonn have come up with an entirely new argument that the federal government alone should not pay for that policy but that the states should also make a modest contribution. There is nothing in the constitution to support this argument, and most constitutional lawyers and all Opposition-controlled state administrations have rejected it; they have been joined by several Social Democratic-led state houses. An independent commission of experts is pondering the argument, and its report is expected before the end of the year. Support for the federal government's position would raise Bonn's chances for a bigger portion of VAT revenue.

Britain: Accounting Bodies Publish Audit Standards

The various accounting bodies in the U.K. and Ireland have recently published their first three auditing standards, which complement the present accounting standards program. The standards prescribe the basic principles and practices that members are expected to follow in the conduct of an audit, if they are not to be liable to professional disciplinary proceedings. It is emphasized that the responsibility for the preparation of the financial statements, and the presentation of the information included, rests with the management of the enterprise (the directors, in the case of a company). It is the duty of the auditors to report on the financial statements as presented by management, and it is their responsibility to prevent and detect irregularities and fraud by instituting an adequate system of internal control.

While the auditor's duties do not require him specifically to search for fraud, unless required by statute or the specific terms of his engagement, he should plan his audit "so that he has a reasonable expectation of detecting material misstatements in the financial statements." The first standard is the operational one, which specifies that the auditor should adequately plan, control, and record his work, with evaluations of internal controls, and should obtain sufficient, relevant, and reliable audit evidence to draw reasonable conclusions.

The second standard,relating to the audit report, states that the report should identify those to whom it is addressed and the financial statements to which it relates. The auditor should expressly state whether, in his opinion, the financial statements give a true and fair view of the state of affairs, profit or loss, and, where applicable, source and application of funds, and whether the financial statements have been audited in accordance with approved auditing standards.

The third standard is concerned with qualifications in audit reports, which may take various forms. It is intended to promote a more consistent understanding of qualified reports. In a disclaimer of opinion, the auditor states he is unable to form an opinion as to whether the financial statements give a true and fair view, while,in an adverse opinion, he states that these statements do not provide such a view. In a "subject to" opinion, the auditor effectively disclaims an opinion on a particular matter that is not considered fundamental, while in an "except" opinion he expresses an adverse opinion on such a matter.

All three standards are effective for the audit of financial statements for accounting periods starting on or after April 1, 1980. In addition, six guidelines have been published covering such areas as planning, controlling, and

Auditing *(contd.)*

recording; accounting systems and audit evidence; internal controls; and review of financial statements. These give guidance on the application of the auditing standards but do not prescribe basic principles and practices.

Denmark: Central Bank Chief Warns of 'Economic Ruin'

Should Denmark's payments deficit and foreign debt continue to accelerate at the present pace, then the country will have to face "economic ruin" in the not-too-distant future. This is the prediction of central bank governor Erik Hoffmeyer in commenting on the latest figures, which show that the payments deficit in the first quarter 1980 was, at DKr 6.6 billion, the highest quarterly shortfall ever. The Council of Economic Advisers is now forecasting a minus of DKr 19 billion this year and of 25 billion in '81. The Council has calculated that in three years Denmark will have to pay DKr 18 billion in annual interest on foreign debts, which are predicted to rise from the present DKr 80 billion to 135 billion in the same period and thus would amount to no less than 26% of GNP.

With GNP expected to drop by 1.2% in real terms this year, hourly wage costs to rise by 11.5%, and consumer prices to go up by 14.2%, the Council agrees with Hoffmeyer that the prospects for the Danish economy are "completely unacceptable." Against this background, there is a consensus that the government's latest austerity measures (VAT boost to 22%, higher energy taxes, some budget cuts) are insufficient to make a real difference in the payments balance and that additional steps, not to exclude further gradual devaluations, are absolutely necessary.

Hoffmeyer has a reputation for mincing no words about what he considers the "irresponsible policies" of the government and Parliament in dealing with the ills of the Danish economy. Early this year, the central bank governor claimed that Denmark had already taken three of the six steps toward "the brink": (1) it has given up its economic independence, (2) it has lost international respect and influence, and (3) it is having an increasingly harder time finding creditors. Step 4, according to Hoffmeyer, could be a plea for aid to the EEC or the World Bank, and Step 5 - just prior to national bankruptcy - could be the formation of an international consortium of creditors. It is a scandal, said Hoffmeyer, that a nation with a per-capita income of more than DKr 50,000 annually is unable to keep its economic house in order.

Italy: Communist Setback in Regional Vote

The center-left government of Premier Francesco Cossiga emerged somewhat strengthened from the Italian regional and communal elections of June 8 and 9, while the opposition Communists suffered a slight setback. The Communists had gone into the elections with the avowed goal of toppling

Regional Vote *(contd.)*

the Cossiga administration. In the late stages of the campaign they had accused the prime minister of having aided the flight of suspected terrorist Marco Donat-Cattin, a son of a friend and fellow Christian Democrat, Carlo Donat-Cattin. The latter meanwhile has resigned as vice chairman of the Christian Democrats. Cossiga was cleared by a parliamentary inquiry committee.

The election results were interpreted by most political observers as a vote of confidence for the three-month-old coalition cabinet, which is made up of Christian Democrats, Socialists, and Republicans. The provisional results, with the 1975 figures in parentheses, were as follows: Christian Democrats, 36.8% (35.3); Communists, 31.5% (33.4); Socialists, 12.7% (12.0); Neo-fascists, 5.9% (6.4); Social Democrats, 5.0% (5.6); Republicans, 3.0% (3.2); and Liberals, 2.7% (2.5).

Greece: Athens Moves to Contain High Inflation

In an announcement to Parliament, Greek Coordination Minister Ioannis Boutos has revealed that public expenditure this year will be kept to an absolute minimum of 58 billion drachmas, 10% below the 1979 level, in an effort to limit the size of the government's budget deficit. At the same time, gasoline prices are being raised by 10% and those of heating fuel by 30%. Boutos also plans to present draft legislation offering special incentives to encourage investment in certain development regions, promote mergers, and aid the formation of cooperatives. As of July 1, Greek commercial banks will be allowed to freely set their interest rates on deposits of pounds sterling or dollars.

With the budgetary measures, Athens is making an attempt to slow down inflation, which still is not much lower than last year's 25% rate. Boutos said that the gentlemen's agreement with Greek importers to hold down the rate of increase of imports has been successful in slowing that rate to 2% in the first four months of 1980, compared with 24% in the same period last year. Nevertheless, the Greek payments deficit is expected to continue growing from $2.3 billion last year to at least $2.5 billion in 1980, largely because of the high cost of oil imports.

Yugoslavia: Devaluation; Economic Policy After Tito

The Yugoslav currency was devalued by 30% against the U.S. dollar over the June 7-8 weekend, and domestic prices were simultaneously frozen for an indefinite period. The dollar now buys 27.30 instead of 21 dinars. The government hopes that the effect will soon be seen in improved exports and tourism revenues. However, the devaluation will also push up import prices and thus exert short-term inflationary pressures. To contain this effect, Belgrade has imposed the price freeze, although certain import-dependent prices

Devaluation *(contd.)*

cannot be controlled, such as those in the energy sector and in agriculture (reflecting the cost of imported fertilizer).

The year has seen an ongoing debate in Yugoslavia over the course of economic policy following Tito's death. Although there are still some who favor a return to centralized economic planning as was practiced before 1965, Belgrade seems more likely to adopt further measures of transition to a market-oriented socialist economy. Stane Dolanc, a member of the party presidium and ex-secretary of the Yugoslav Communist League, said recently that the government will take a "more realistic approach," giving a "freer rein to market forces" so as to make the economic system more efficient.

Belgrade is expected in the next few months to fix controlled prices "on a market basis." Other plans include the encouragement of private savings and allowing broader freedom for small private businesses, with the aim of bringing this sector out of its clandestine existence (not least for tax reasons). The dinar devaluation is expected to be followed by a series of measures controlling government spending and investment and imposing further curbs on the growth of personal incomes. Nominal incomes were already put under some control at the end of last year.

The main stimulus for the government's changing economic course is provided by the seriously deteriorating foreign trade balance, accompanied by an unremittingly high rate of inflation of over 20%. The trade deficit rose from $4.3 billion in 1978 to $6.37 billion last year. Exports of $6.49 billion last year hardly covered the import bill, and at the same time the annual interest burden on the country's $14-billion foreign debt rose from 16% to 19%.

The latest OECD Survey of the Yugoslav economy, issued on June 6, concludes that an extended period of strong economic expansion has led to overheating, which will require stabilization measures over a longer period of time, including a continuously tight demand policy and limits on incomes. The OECD emphasizes that investment curbs must be tightened and that the principal criterion for new investments in the future should be their long-term viability in the highly competitive international environment. This viability determines export success, the organization says, rather than the traditional import substitution benefit that has governed investment decisions until now.

Common Market Reports

EUROMARKET NEWS

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Community: Finance Reform Pondered at Venice Summit

The June 12-13 Venice summit of the nine heads of EEC Member State governments was wound up with declarations on the Middle East (calling for the PLO's involvement in peace negotiations) and on Afghanistan (demanding the withdrawal of Soviet occupation troops). Severe criticism was leveled against OPEC's latest price increases. The heads of government discussed the causes of the Community's most recent crisis and the implications of the controversy over Britain's EC budget contributions beyond the temporary solution found for 1980 and '81.

Considerable time was devoted to structural changes in the financing of the Community budget that the Council of Ministers earlier had pledged for 1982, but no formal statement was issued. A financial reform now seems certain, but it is not known what shape it might take. The Commission has until July 1981 to come up with proposals, but its task will not be easy for a number of reasons. According to the Council mandate, the EC executive must examine the development of Community policies without consideration for the common financial responsibility resulting from these policies, which are financed from the Community's own resources. Also, the Commission may not touch on the basic principles of the common agricultural policy, al-

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Finance Reform *(contd.)*

though efforts to conserve the Community's financial resources will have to start with slowing the soaring costs of financing CAP. There is no chance of augmenting the Community's value-added tax revenue: both the Council and the heads of government have reemphasized their unwillingness to discuss a higher percentage of national VAT revenue (at present 1%) to build up the EC budget.

It became clear in Venice that from 1982 onward Germany cannot be expected to make financial sacrifices similar to the DM 2.6 billion that it agreed to pay for 1980 and '81. Chancellor Helmut Schmidt said at the meeting that he favors some sort of ceiling on a Member State's net receipt, which would mean that the poorer States would have to be content with less than what they are now receiving from the Community. This would also have broad implications for new Member States.

Agreement on First Job Safety Measure

The Council of Ministers has reached agreement on the draft directive concerning protection of workers from harmful exposure to chemical, physical and biological agents. Formal adoption is expected within weeks. This measure, the first called for under the Community's job safety program adopted in July 1978, would establish standards and at the same time harmonize national rules. It would form the foundation for future national and Community legislation governing job health and safety. (A draft directive designed to protect workers from harmful exposure to lead and its compounds was submitted to the Council last December.)

Specifically, the directive would lay down common principles governing the prevention of risks and the protection of employees exposed to harsh agents. There would be general rules on maximum exposure, emergency measures, monitoring workers' health, and information to be given to workers. Nine agents have been singled out because of their potential hazards to human health, and the draft directive outlines additional, more specific steps that would have to be taken, such as medical checkups for employees. Workers would have to be informed about the hazards of harmful exposure to agents such as arsenic, asbestos, lead, and mercury; these agents could be the subject of specific EEC directives at a later date, similar to the pending directive on lead.

Although the States would have some flexibility about the extent of health surveillance and the warnings concerning individual harmful agents, the measure nevertheless contains certain definitive commitments. The States would have to enact legislation within a four-year period following formal adoption in order to guarantee proper monitoring of workers' health after contact with asbestos and lead. The Commission originally thought the usual 18-month period would suffice for compliance, but under pressure from the

Job Safety (Contd.)

British and Irish governments it agreed to a longer time period for the introduction of compulsory health surveillance. Within three years, the States would have to use the proper methods of informing workers about the dangers of exposure to asbestos, arsenic, cadmium, mercury, and lead. Some states already require employers to make such information available to workers.

In Brief...

Overruling Germany's objections, the Council has confirmed the Commission's Feb. 21 measure placing quotas on imports of U.S.-made polyester filament and nylon carpeting yarn into Britain (Official Journal, No. L 145, June 11, 1980, page 22). Germany had asked the Council to review the protective measure because it wanted additional evidence from the Commission that the British fiber industry had indeed been hurt by low-priced imports from the U.S. Upon Bonn's request it was recorded in the Council minutes that not imports from the U.S. but, as established by the Commission, the slow adaptation of British industry to changes in world market conditions was the major cause for the difficulties. Confirmation of the protective measure has considerably increased the risk of countermeasures by the U.S. under GATT + + + Professor Hans Kutscher, President of the European Court of Justice, has tendered his resignation for the end of October. Kutscher has been with the Court since October 1970 and has been its president since October 1976.

Germany: Court Confirms Conditional Lockout Right

The German Supreme Labor Court has upheld the rights of employers to lock out employees in response to strike action, but it attached conditions to the exercise of that right. Union leaders had hoped for a ban on the lockout. In line with its case law doctrine developed in the absence of statutory provisions, the high court said that employers must be able to lock out as a means of last resort to advance their interests, just as workers may go on strike for better pay and better working conditions *(Doing Business in Europe, Par. 23,421)*.

There was a new element in the judgments handed down on June 10 in three test cases brought by individuals employed by a metal working company in Baden-Württemberg and two printing firms in the state of Hesse: lockouts by employers may not discriminate against organized workers. In the court's opinion, to allow this sort of discrimination would seriously undermine the unions' role as an independent force in a free society in which union contracts are concluded without government interference. Nor may employers discriminate otherwise by locking out only those workers who are striking, regardless of their affiliation, and letting those who are willing to work continue. However, differentiating according to other criteria such as special qualifications could be lawful in certain situations, the

Lockouts *(contd.)*

high court held. Thus, locking out all except some highly qualified people would be lawful.

Since the lockout may be exercised only to the extent that its use is commensurate with the objectives pursued, the court developed some guidelines on what it thought would be commensurate and thus lawful. Whenever less than 25% of the employees covered by a union contract go on strike, employers may not lock out more than 25% of the employees; a higher percentage would make the lockout disproportionate and thus unlawful. Precisely that was at issue in two of the test cases: when printers in the state of Hesse went on strike in 1978, the national publishers association responded by locking out employees in all printing establishments throughout the country. This overall response was excessive and therefore unlawful, according to the high court. Thus, the employees obtained favorable judgments and must be awarded all pay lost during the illegal lockout.

The situation was different in the other test case, brought by an employee of a metal working company in Baden-Württemberg. When the unions in 1978 called for selective strikes affecting individual companies and involving roughly 80,000 of the total of 550,000 employees in the metal working industry of the northern region of that state, the employers reacted by locking out some 120,000 employees. This number was still under the 25% guideline, and so the court held that the lockout was lawful. The employee lost the case, and around 30,000 others who sued their employers for back pay would lose too if they decided to appeal the lower court judgments that went against them.

Britain: First Ruling under 1979 Arbitration Act

In *Pioneer Shipping Ltd. & Another v. B.T.P. Tioxide Ltd.,* the U.K. Court of Appeal on May 22 gave what was considered a significant ruling in the first case to be brought under the Arbitration Act 1979, which relates to arbitrations begun on or after Aug. 1, 1979. The Court said that, since the Act took effect, decisions by arbitrators are to be questioned on points of law only if the judge gives leave, usually with no appeal from his decision to the Court of Appeal. A commercial arbitrator is better placed to interpret a commercial document, in a commercial sense, than a judge would be, the Court said. Thus, once the arbitrator gives his decision, the parties should abide by it.

This particular case was concerned with whether a charter party had been frustrated. Pioneer Shipping had chartered a ship to Tioxide for six consecutive voyages across the Atlantic to Sorel, in Canada. After the first voyage, a strike of indeterminate length began at Sorel, and the arbitrator held that this frustrated the charter party; here, the Court restored the arbitrator's award.

Arbitration (Contd.)

Lord Denning held that the guidelines laid down in the *Lysland* case in 1973 did not apply to the 1979 Act and therefore should be discarded. According to Section 1(4) of the 1979 Act, leave to question the arbitrator's decision should not be given unless the point of law is one of practical importance which could "substantially affect" the rights of one of the parties. If the only question is the proper interpretation of a commercial contract, the judge should not give leave to appeal. Even in a standard form contract, the commercial arbitrator is better placed to interpret it commercially than the judge himself. Lord Denning said that in a case such as this one, where the two parties had sought and obtained a quick decision about what the vessel was to do on the next voyage, once the arbitrator has given his decision, the parties should abide by it.

Lord Denning noted that the arbitrator had expressed the concern in the City of London at the restrictive approach shown by some judges in determining commercial disputes, "where commercial justice was sometimes sacrificed upon the altar of certainty." He agreed with this view and hoped that, as a result of this decision, the judges would adopt the slightly more liberal approach sought by the City.

Belgium: Bank Secrecy; Easing of Interest Levels

According to reports from Brussels, Belgium's long-standing tradition of strict banking secrecy would be in jeopardy should the government succeed with legislative proposals aimed at stepping up the fight against tax evasion. A draft bill to this effect has been completed and is being discussed, and it has the full support of Finance Minister Robert Henrion. Under its provisions, the Belgian fiscal authorities, in investigating tax evasion, would be enabled to inspect books, payments records, and other documents of banks. Such inspection procedures could be implemented on the special authority of the inspector-general of the fiscal administration, provided there was some proof of tax evasion.

In other news, the Belgian National Bank has taken a first cautious step toward bringing down interest rate levels by dropping both its "Plafonds B" discount rate and the Lombard rate from 15% to 14.5% as of June 5. The Plafonds B rate applies to about two-thirds of the rediscount contingent. The official discount rate (Plafonds A) of 14%, which was fixed at that level last March 20, remains unchanged.

The National Bank apparently has been encouraged by the stabilized position of the Belgian franc on the international exchange markets during the past two months or so. In the first quarter of 1980, the Bank had been forced to support the currency with substantial and consistent for-

Bank Secrecy *(contd.)*

eign exchange sales totalling over BF 70 billion. Since mid-April, though, it has managed to replenish its curre[n]cy reserves, albeit in small amounts. The recovery of the franc is being attributed not only to the relative weakness of the German mark but also to the easing of inflationary pressures (to 6.4% in April) and the more stable political situation following the Liberals' joining of the Martens cabinet.

France: Public-Sector Strikes Affect Labor Climate

Relations between the French employers' federation CNPF and the trade unions (dominated by the Communist CGT and the Socialist CFDT) have deteriorated over the past weeks as a result of escalating strike action in the public sector. A one-day strike of workers at the state-owned electricity utility EDF, the fifth in two months, has come on top of an ongoing series of strikes by transport workers against threatened dismissals. The EDF workers are protesting draft legislation proposed by Industry Minister André Giraud, which would impose immediate dismissal without appeal or compensation for workers in nuclear power fuel plants who deliberately take any action prejudicial to plant security or otherwise ignore safety regulations. The bill has already been passed in a first reading in the National Assembly on May 22. The trade unions object to it on the grounds that it undermines the workers' fundamental right to strike. The government, for its part, is anxious to ensure that the safety of nuclear power plants can in no way be threatened by strike action.

The CNPF claims that the public-sector strikes have caused a FF 25-billion real-term loss to the economy so far. To indicate its impatience, the federation cancele[d] meetings with the trade unions on a shortening of work hours scheduled to begin on June 11. CNPF president François Ceyrac said that under the existing circumstances it was impossible to negotiate with the trade unions with "the necessary objectivity and serenity." Ceyrac has called for the government to take measures to ensure that the EDF provides minimum service even in the event of a total strike. The unions have already accepted this principle in the case of workers employed in the sectors of radio and TV, police, and air traffic control.

The unions' present militancy is being attributed to the serious decline in purchasing power last year, estimated by INSEE, the national statistical institute, at between 0.3% and 2.6%, depending on income, and caused by rising prices, higher social security contributions, and reduced working hours. In a recent meeting with President Giscard d'Estaing, CFDT secretary-general Edmond Maire attempted to persuade the government to raise the minimum wage from the present FF 2,400 to FF 3,000. He presented

Labor Climate (Contd.)

figures showing that more than 4 million of France's 16.5 million workers earn less than FF 3,000 per month. In the private sector, 12.3% of employees receive less than the present minimum wage in gross earnings, while another 12% receive between FF 2,400 and FF 3,000. Low-wage labor is concentrated particularly in the textile, clothing and service sectors, and among women.

Netherlands: Cabinet Rift Over Spending Cutbacks

A recent statement by Dutch Prime Minister Andries van Agt to the effect that reduced growth expectations would have to be matched by lower government spending in the 1981 budget met with contradiction from his Conservative party colleague, Social Affairs Minister Willem Albeda. Van Agt had stressed that the proposed budget expansion would have to be cut back especially in the area of social welfare, which is scheduled for a 2.5% increase in '81. Van Agt wants a total budget reduction of about 6 billion guilders. Albeda announced publicly that he would oppose any such cuts because they would primarily affect the unemployed and low-income groups. Only a few months ago, former Finance Minister Frans Andriessen decided to resign from the coalition cabinet when Albeda succeeded in bringing about a reduction in Andriessen's plans for spending cuts in the 1980 budget.

Albeda occupies a special position in the coalition because of his close relations to the trade unions, which are worried that the unexpectedly high rate of consumer price inflation (1.1% in April) will result in a large-scale erosion of workers' purchasing power. It is already evident that under the conditions of the government's strict wage controls it will not be possible to maintain the purchasing power of lower incomes even with the 3% increase in the minimum wage planned for July 1. The Hague's calculations of the buying power of higher incomes have also been overtaken by events. Now the employers are beginning to demand that free wage bargaining be restored next year, even if strict controls remain in force for the rest of 1980. Albeda mentioned a total review of incomes and social security policy as a condition under which he might accept cuts in social spending.

The government has also been confronted with a disconcerting increase in the rate of unemployment, which in May reached a post-war record of 229,500, or 5%. While the unions propose a reduction in work hours as a solution, the employers disagree and point to the continuing high level of vacancies. In their view, these openings demonstrate the existence of bottlenecks in the labor market which should be overcome by reducing unemployment benefits. In the Labor Market Council, however, where both unions and employers are represented, discussion has so far centered on improving the function of labor exchanges and establish-

Spending Cuts (contd.)

ing better job training facilities. The Council members have also criticized a report recently presented by Albe[illegible] because of its alleged lack of new ideas.

Switzerland: Compromise in Interest Rate Dispute

A compromise that helped both sides "to save face" has ended a veritable "interest rate war" between Switzerland's commercial banks and the National Bank, in which the public was clearly supporting the latter. Early this month, the banks had announced that rates on existing mortgages would be raised for the second time this year, by 0.5% to 5% on Oct. 1. The banks said some compensation would be offered in that interest rates on savings deposits would also rise by 0.5% to 3.0%, as of Sept. 1. (The Swiss inflation rate currently exceeds 4%.) The banks were accused of completely disregarding an earlier statement by the National Bank authorities disclaiming any need for a further mortgage rate boost, which would automatically lead to housing rent increases and add to domestic inflationary pressures.

Following a conciliation meeting of the two parties, the Swiss bankers' association said it shared the National Bank's apprehension about the inflationary threats and recommended that its member banks not raise mortgage rates on Oct. 1 but on Jan. 1, 1981, at the earliest. The National Bank, in turn, acknowledged "the necessity of market-conforming interest rates on the part of the commercial banks and measures by the banks to counter the loss of savings funds."

Financial observers said they were surprised by the publicity given to the dispute, which is not in keeping with the discretion normally exercised by the Swiss bank[illegible] community. However, the National Bank authorities were clearly angered after being bypassed on the matter, and the president, Fritz Leutwiler, reportedly said the banks must have been "out of their heads." Leutwiler feared that higher housing rents would further fuel inflation by way of indexed wage contracts and that this would sabotage the efforts of both the Bank and the government to maintain relative price stability in Switzerland.

The banks justified their decision for a mortgage rate increase with the shrinking margin, which now stands at 1.09% and which, if it recedes again, would actually endanger the profitability of some smaller banks. The banks are experiencing some problems with dwindling savings deposits because interest rates abroad are considerably higher. However, both the National Bank and the federal government see no immediate financial threats to the commercial banks, which generally reported very healthy earnings in 1979.

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Community: Adoption Seen N[illegible]r of Revised [illegible]t Budget

The Council of Ministers and the European Parliament are expected to reach an early compromise on the Community's revised 1980 draft budget of 16.2 billion units of account, a 12.5% increase over 1979. The revised draft differs from the Commission's proposal submitted in February in that it includes last month's farm price settlement and 300 million UA for special spending in the U.K. The latter is an advance on the 2.6 billion UA to be paid to the U.K. under the Brussels compromise of May 30; the largest part will be made available in the 1981 budget.

The European Parliament rejected the original draft budget last December following the Council's refusal to accept EP-proposed amendments providing for token cuts in farm policy spending and raising expenditures for regional aid, social purposes, and other sectors to roughly 400 million UA. Subsequently, however, Parliament signaled its readiness to compromise. On June 19, the EP's budget committee voted overwhelmingly in favor of the new draft budget and recommended adoption by the full house.

The time element is a crucial factor in the deliberations. Although the emergency appropriation procedure, under which the Community may spend each month one-twelfth of the previous year's allocations, has helped in the past, it

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Draft Budget *(contd.)*

would no longer in the future because farm expenditure is now running ahead of last year's spending, largely because of the average 5% price increase agreed by the Council on May 30.

An early settlement between the Council and Parliament will basically depend on whether the full house, like the budget committee, will be satisfied with limited possibilities for additional spending on regional and social aid (some 200 million UA). Normally Parliament would amend the budget proposals submitted by the Council, and then the Council would either accept or reject the amendments before sending the draft back to the EP *(Common Market Reports, Par. 5021)*.

Brussels observers generally concur that there is plenty in the revised draft budget that the Parliament may find objectionable, but there are also several proposals that will meet with its approval. The average 5% increase in prices for agricultural commodities would raise overall expenditures in the farm policy sector by roughly 11%; this would still be well below the previous increases, which averaged 23% annually in 1975-1979. There would be an additional 50 million UA for regional aid spending as well as modest increases for common projects in research and development, energy, and transport.

Disclosure of Information by Multinationals

Commission lawyers are still pondering the extent and form of rules that would require multinational companies operating in the Common Market to disclose certain information to employees and to consult the latter or their representatives on major policy decisions such as those on investments, closures, and mergers. These rules would apply to both EEC-based multinational companies and to companies with head offices outside the Common Market but with two or more subsidiaries operating therein. A formal proposal is expected to go to the full Commission toward the end of this month, but its future in the Commission or the Council of Ministers is not clear.

It was essentially Commissioner Hank Vredeling's idea to launch an initiative to compel multinationals to reveal detailed financial and other operational information to employees. (Vredeling, in charge of social and labor policy matters, is a former leading Dutch union official.) Some unions have also been exerting pressure in this direction. Vredeling's concept originally met with considerable opposition from several commissioners, especially Commissioner Etienne Davignon, who is in charge of industrial policy and company law matters. Davignon reportedly is still concerned about the fact that the planned rules would treat multinationals differently than purely national companies.

In the meantime, an internal Commission memorandum

Disclosure *(contd.)*

calls for the transformation into a binding form of many of the voluntary provisions of the OECD code of conduct for multinational companies. The OECD guidelines as well as those established by the United Nations and the International Labor Organization have failed to produce the type and volume of information considered desirable for employees of multinational companies, according to the memorandum. Its authors propose that the future rules take the legal form of a directive, which would be binding on the Member States. A recommendation would not be binding. Although the planned measure fits into the Commission's action program for 1980, its fate is nevertheless uncertain, partly because of the legal problems it would pose with respect to third-country-based multinational companies and partly because the Commissioners end their term of office in 1980 - some may not want to take positions on such a highly charged issue.

In Brief...

Representatives of seven of the nine Member State governments signed the Convention on the Law Applicable to Contractual Obligations on June 19 in Rome. The U.K. and Denmark are expected to follow suit. The convention establishes uniform rules on conflicts of law within the Community and will thus help solve commercial disputes between businesses and individuals from different States. The treaty must be approved by the national parliaments; it will enter into force once it has been ratified by at least five legislatures *(Common Market Reports, Par. 6311)* + + + A Commission report submitted to the Council and the European Parliament confirms long-standing allegations that Dutch horticulturists have a considerable competitive edge over their counterparts elsewhere in the EEC. The distortion is caused by the difference in energy costs: the Dutch gardeners and vegetable growers heat their hothouses with natural gas and benefit considerably from the highly favorable price established by the Dutch government. The EC executive has ordered a review of the price under Treaty Article 93(1).

Britain: Bank Ordered to Reveal Data About Clients

In a June 5 judgment in *Bankers Trust Co. v. Shapira & Others*, the U.K. Court of Appeal has extended the requirement for a bank to disclose confidential information about its customers' affairs in cases in which dishonesty or fraud is claimed. In this particular action, Bankers Trust Co. of New York was granted an order requiring Discount Bank (Overseas) Ltd. to disclose material that might assist Bankers Trust to trace and recover $1 million. This involved checks that were purported to have been drawn on the Mecca branch of the National Commercial Bank of Saudi Arabia but which were actually forgeries. The checks were honored by Bankers Trust, which duly credited the accounts

Client Data *(contd.)*

of two individuals at Discount Bank (Overseas) in London. The Saudi Arabian bank also honored the checks. Subsequently, when these were found to be patent forgeries, Bankers Trust agreed to indemnify the Saudi bank and thus sustained the loss. The U.S. bank thereupon sought to obtain relevant data on whether the money had been transferred, the identity of the transferees, and how much money remained in the accounts of the two individuals.

Lord Denning said that "a bank's confidential relationship with its customers does not apply when it may be used by wrongdoers to steal through fraud or iniquity." It was an important part of the Court's powers to be able to order discovery so as to enable justice to be done and to trace the whereabouts of the funds. Neither of the two individuals had been served with an order for discovery because they were not within jurisdiction, but Lord Denning said this did not deprive the Court of its power to issue such an order. If the Court were to wait until the individuals were served, many weeks might elapse and the money might fall into the hands of third parties, who would dispose of it.

The disclosure ordered by the Court in this case goes far beyond what would have to be made under the Bankers' Books Evidence Act 1879. It permits Bankers Trust to make copies of all relevant correspondence, debit vouchers, checks, transfer applications, and internal memoranda. However, Lord Justice Waller said that an order of such an extent was completely justified in such a case, since it might be impossible to trace the lost funds unless there was the fullest possible information. On the other hand, there would have to be an implied undertaking by Bankers Trust that the information obtained would be used only for the purpose of this particular action.

Germany: Labor's Role in Mannesmann Reorganization

The planned reorganization of Germany's Mannesmann Corp. could become a precedent for escaping application of the 1951 statute entitling labor to half of the seats on the supervisory board of coal-mining and steel-making companies, observers say. Management's plan to separate the Hüttenwerke AG steel mill from the Mannesmann holding corporation and combine it with Mannesmann-Röhren-Werke AG would remove the holding from the scope of the 1951 statute and subject it to the less extensive 1976 Codetermination Law.

Since labor has much less leverage when a company falls under the 1976 law, Mannesmann's plan would have serious implications. Under the 1951 statute the supervisory board members representing the shareholders and labor elect the board chairman, the so-called neutral man. Under the Codetermination Law, however, the shareholders' representa-

[Man]nesmann *(contd.)*

tives alone decide on the second ballot who will be the chairman; he has the extra ballot to break any voting tie over an important issue such as rationalization or plant closures. Also, the managing board of a coal-mining company or steel mill must have one member in charge of personnel matters; he may not be elected against a union's opposition *(Doing Business in Europe, Pars. 23,222A, 23,222C, 23,441)*.

Union leaders have accused the Mannesmann management of attempting to escape legislation at the expense of labor. If the plan succeeds, the unions would have only three members on the supervisory board instead of the present four. Leading Social Democrats have joined the union critics and have even vowed to propose special legislation that would preserve labor's influence on the board regardless of the corporate organization. Legislation would be introduced after the national election in October in the event that the governing Social Democrats are returned to power. The Free Democrats, the junior partners in the Bonn coalition government, are opposed to any such special legislation. They say that if economic reasons force management to propose a change in the legal structure within a holding company, and both the supervisory board and the shareholders approve it, thus removing the company from the scope of application of a particular law, there should not be an attempt to preserve the existing situation.

Back in 1956 the unions exerted strong pressure in a similar case involving Rheinstahl, another steelmaker. Parliament adopted amendments to the 1951 statute that preserved labor's say in managing the affairs of holding companies that had been involved in coal and steel, even though their shift away from coal mining and steel manufacturing no longer justified application of the 1951 statute *(Doing Business in Europe, Par. 23,441)*.

It is this kind of change in activities that prompted Mannesmann's managing board to propose to the supervisory board and the shareholders the restructuring of Hüttenwerke and Mannesmann-Röhren-Werke corporations. Since steel demand has fluctuated in the past and has been declining for more than a decade, Mannesmann has sought and found ways to diversify; at present Hüttenwerke AG produces only as much steel as Röhren-Werke AG needs for its pipe production. The managing board's plan would have to be approved by the supervisory board and the shareholders; in the event of a tie the neutral man, a leading bank executive and a registered Social Democrat, would cast the deciding vote.

[OE]CD Predicts Slowdown in Growth

The latest OECD economic survey of Germany predicts that 1980 will see a considerable slowdown in economic activity, with GNP growth falling to 2% this year and to 1% in the first half of 1981. The OECD Secretariat is hopeful, how-

OECD Survey *(contd.)*

ever, that fixed business investment will remain strong a help limit the rise in unemployment; tax reductions planned for late 1980 and the beginning of '81 may also help to maintain demand and employment. The survey forecasts that inflation, after reaching 5% in 1980, will fall to 3.5% in 1981.

The unknown factors which led the OECD to express caution in its forecasts include the level of future nominal interest rates. Within the framework of monetary targets, the organization says, these rates should be allowed to fall in order to bring about a reduction in real-term rates. Another factor is the future German policy in relation to the public-sector deficit, which, after falling relative to GNP in 1976 and '77, rose again under the impact of the expansionary fiscal policy of 1978 and '79. This year the deficit is expected to remain at the same approximate level as in the last two years.

According to the OECD, Germany's "highly satisfacto economic performance in 1979 was due, first of all, to th fiscal policy measures taken by Bonn in line with the concerted action program adopted in June 1978 by OECD governments. The survey also takes note of the "responsible" behavior of the trade unions, which facilitated the adoption of growth-promoting policies and helped restore a better income distribution. This, in turn, was conducive to higher private investment. Indeed, the high level of gross fixed investment was partly responsible for the high GNP growth of 4.4% in 1979, which well exceeded the OECD's own forecast of 3.75%. Gross fixed capital formation rose b 8.5% in real terms, reaching a share of 23% of nominal G after 21.5% in 1978.

<u>France: Computer File on Private Banking Data</u>

French Budget Minister Maurice Papon, who is responsible for the administration of the tax and customs authorities, has issued new regulations to streamline the gathering of information by the government on private bank accounts and to centralize it all in one computer system. Although there is no single law laying down a unified set of rules for the different aspects of banking secrecy in France, a "code of conduct" has developed over a period of time out of the various regulations and laws that do exist. The principal exception to the normal rules of banking secrecy relates to the tax authorities: every bank is legally required to report the opening and closing of any private account to the tax authorities, along with the name of the account holder.

Papon's new computerized system will allow the Budg Ministry to store all available financial information concerning the holder of a bank account, his personal data, and the opening and closing records of the account. This

Computer File *(contd.)*

surveillance also includes hitherto protected areas, such as data on personal savings books. The computer files will be available to other authorities as well - the courts, police, customs, the state procurement agency, and the cartel and competition agencies. Earlier, Papon's Ministry had also set up a computer bank storing data relating to possible violations of customs and currency regulations.

Austria: Withholding Tax on Interest Income?

The Austrian government's search for additional revenue to narrow the federal budget deficit has produced a controversial proposal by Chancellor Bruno Kreisky for the introduction of a withholding tax on interest income. Such a levy on proceeds from savings and securities deposits would be preferable to raising stamp duties and other public charges, according to Kreisky.

Actually, interest earnings are already subject to income taxation in Austria, with a tax-free annual allowance of 7,000 schillings per taxpayer. However, such income is rarely reported in tax returns because holders of bank accounts may remain anonymous. In opening an account, an individual does not need to reveal his identity; subsequently, he may use a code word to effect transactions in the account. Thus, it is generally not possible for the fiscal authorities to trace the ownership of an account. Kreisky says his proposal would enable the government to tax interest income at bank level; this would have the advantage of preserving the anonymity of the customer, while giving the state a much-needed additional revenue source.

Financial commentators, however, expressed misgivings about the idea, saying that it was not a very good approach to solving the budget problems and legally dubious to boot. Kreisky's proposal was not even given support by Vice Chancellor and Finance Minister Hannes Androsch, who listed economic and social reasons for his opposition. Nevertheless, Androsch is looking hard for ways to trim the government's net budget deficit from 31 billion schillings this year to 25 billion in '81, or from 3% to 2.5% of GNP. Spending cuts as well as higher social security contributions, postal charges, and rail fares are among the measures considered.

Norway: Higher Taxes for North Sea Oil Companies

The Norwegian parliament has passed a bill raising the rate of taxation imposed on oil companies operating in the North Sea. The average rate of taxation will be boosted from 69% to about 82%, with the major part of the increase deriving from the raising of the special excess profits tax from 25% to 35%. The special tax is imposed on company earnings above a certain limit. The grace period that permits companies to delay tax payments due will be reduced from one

Oil Companies *(contd.)*

year to six months; there will be a transition period of two and one-half years for this adjustment.

Although the Norwegian tax system is now likely to be more stringent than the British one, Finance Minister Ulf Sand insists that there will still be "something left" for the oil operators. The principal purpose of the higher tax is to drain off windfall profits resulting from the increase in the world market price for oil. The measure will give Oslo a further NKr 53 billion in revenue, in addition to the estimated NKr 228 billion already coming from the oil companies.

The tax increases are, in fact, considerably less than those originally planned, which would have brought the average rate of taxation up to 85% and reduced the payment period to three months. The intention to cut the period of tax deductibility of 10% of investment outlays from 15 to ten years has been completely dropped. The change in plans follows widespread protests from the oil companies, some of which even threatened to cease development of new fields.

EURO COMPANY SCENE

AEG-Telefunken/ Ontel

Germany's AEG-Telefunken, the electrical engineering company, has acquired for $3.5 million a 10% share in Ontel, a computer manufacturer based in Woodbury, N.Y. Ontel last year reported sales of about $30 million and employs 500.

Roussel-Uclaf/ Foster Grant/ Hoechst

The French pharmaceutical group Roussel-Uclaf has taken over Foster Grant, the leading U.S. manufacturer of sun glasses, for $26.5 million. The seller was Hoechst, the German chemicals company, which is also the majority owner of Roussel-Uclaf. With a series of acquisitions at home and abroad, the French company eventually aims to become the world's largest producer of sun glasses.

Michelin

Michelin, the French tire manufacturer, continues its growth in the North American markets with the expansion of two existing plants and the construction of a third in Canada's Nova Scotia province, for a total of $400 million. The new plant is to take up production of radial-ply tires in 1982. In the United States, Michelin is building new production facilities at Lexington, S.C. (to be completed next year) and at Lubbock, Texas (1983).

Common Market Reports

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Community: Proposal for Environmental Impact Rules

The European Commission has proposed legislation calling for the establishment of common principles to determine the effects of public and private projects, such as highways and factories, on the environment and living conditions. So far environmental protection efforts in the Member States and the Community have been largely confined to repairing the worst damage or preventing further deterioration; in other words, they have been essentially remedial in nature. A number of Member States and other industrialized nations have long felt it was necessary to introduce preventive measures as well, this being considered the best environmental policy. The Community's 1977 Second Environmental Action Program calls for evaluation of the effects on the quality of life and natural environment of any measure adopted or contemplated at national or Community level *(Common Market Reports, Par. 3315.012)*.

Aside from the merits of an assessment system as part of environmental policy, Community action is also warranted in order to reduce or eliminate distortions of competition caused by considerable variations in the principles and criteria existing in the States. There are even differences among various industrial sectors within one Member State in that companies in one branch of industry are re-

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Impact Rules *(contd.)*

quired to prepare impact studies, while firms in other sectors need not.

Adoption of the draft directive would mean that a public authority or a business would have to prepare a study on the possible effects that a project would have on the environment and the quality of life. A company could prepare the study itself or contract a firm to do it. The Commission believes that the costs of making an impact assessment study would be low - much lower, in any case, than those of remedial pollution control action taken subsequently. Pilot studies made on an experimental basis in the Netherlands show that the cost of carrying out assessment studies is, on the average, 0.25% of the total cost of development projects. The French government's estimates range from 0.25% to 0.75%. The Commission emphasizes, however, that these costs would decline with the development of know-how and available data (technical expertise, qualification of specialized staff) and by repeating assessment operations in similar cases.

Concrete Steps Proposed to Aid U.K. Projects

The Commission has submitted to the Council of Ministers two proposals as follow-up measures to the May 30 agreement calling for payments to the United Kingdom to reduce the latter's contributions to the Community budget. These payments are supposed to be made by (a) adjusting the finance mechanism established in 1976 to prevent a Member State from having to bear a disproportionately high burden in financing the EC budget, and (b) financing investments in the U.K., especially in less developed regions (so-called assisted areas).

The second method is considered more significant and will have a visible impact because the Commission proposal would authorize additional EEC funds for a wide range of public spending programs in the U.K., including advanced plant building and public housing construction. In addition, Britain would qualify for cash support in coal mining and urban renewal and could also apply for grants to improve transport and telecommunication facilities, to open additional water supplies, and to upgrade the water environment with new sewage plants. Hence, the range of investments qualifying for EEC financial support would be much broader than that eligible for financial assistance under the Community's regional development policy. According to the proposal, EEC grants given to finance programs and projects in the U.K. could reach as much as 70% of the total investment.

EEC rules bar a simple transfer of funds to the British Treasury. The money must be formally earmarked to reduce differences among the States' economies, a major Community objective. Cash payments could be made only after the Commission had consulted the regional development poli-

U.K. Aid
(contd.)

cy committee or the energy committee. If the EC executive is not satisfied with the data submitted by the British government in connection with an application for Community grants, it could demand additional information. A summary of each Community-supported special program would be published in the Official Journal to publicize what the EEC is doing with the money pledged by the States, notably Germany and France, in the "Brussels compromise." In addition, the British government would have to make efforts on its own to publicize Community assistance for various projects.

Brussels observers do not expect any real opposition in the Council to the broad range of investments that would qualify for financial support because even the opening of new coal mines could be justified under existing development policy criteria. An exception may be urban renewal, and some Commission officials anticipate opposition from a few States because of the precedent-setting effect: if Community grants are given to tear down dilapidated buildings and build new houses in Bristol, why should the Community not grant similar assistance in Lyon or Naples?

Opposition is expected, however, when the discussion turns to the mode of payments. Under the proposal, the Commission would advance 90% of the Community grant once the project is approved. This could mean that as much as 63% of the projected total costs would be paid out in advance if the Community grant reached the maximum of 70%. Some States might insist on a veto that would delay payment and require additional information on the project before final approval of EEC financial support is given.

Italy: Cabinet OKs Banking Law Reform Bill

The Italian cabinet has approved and sent to Parliament a banking reform bill designed to adapt national law to European Community rules (for instance, with respect to nondiscriminatory treatment of foreign banks operating in Italy) but also to amend certain other provisions of the domestic banking law, which dates back to 1936. A major feature of the new law would provide for the equal treatment of the management and control bodies of public and private banking institutions with respect to penal sanctions of banking law violations.

The latter provision would benefit managers and officers of banks organized on the basis of a public charter. Such institutions are subject to particularly stringent rules as concerns investment and security requirements. Earlier this year, top managers and officials of Italy's 25 largest savings banks had been arrested in connection with the granting or improper obtaining of unsecured loans from "white funds" *(conti bianchi)* maintained by Italcasse, the central institute of the Italian savings banks. It was pointed out at the time that, while these transactions vio-

Banking Bill *(contd.)*

lated public rules, at least some of them could be justified on economic grounds. If carried through by private banks, the same operations would not have been illegal. The new law would correct this discrepancy.

Public chartered banks in Italy, including savings banks, operate with a state-provided fund rather than share capital; they report directly to the central bank. To qualify for the charter, they have to perform as universal banks in at least 30 provinces. Consequently, they are normally large or fairly large institutions: Banca Nazionale del Lavoro, Istituto Bancario San Paolo di Torino, Banco di Napoli, Monte dei Pasche di Siena, Banco di Sicilia, and Banco di Sardegna. Last year these banks accounted for 82,000 billion lire, or 25%, of all banking deposits. With the inclusion of the country's 53 savings banks (22% of total deposits), the public charter banking sector accounts for nearly half of all bank deposits in Italy.

Germany: Dispute Over Board Member's Duty to Secrecy

Corporation and union lawyers in Germany have been arguing for several years about the extent of a supervisory board member's obligation to keep confidential all information obtained in the exercise of his job. The dispute intensified recently when a labor representative on the supervisory board of a large corporation revealed to the public the planned elimination of several thousand jobs that both the management and supervisory boards considered inevitable in order to put the company back on its feet. Corporation lawyers saw in the disclosure of the planned mass layoff a clear violation of the statutory obligation of secrecy; union lawyers, however, considered the disclosure a necessity in order to inform the employees at an early stage. Normally, the employees would receive the news eventually from management and the works council on the basis of the information rights extended to works councils by the 1972 Works Council Act *(Doing Business in Europe, Par. 23,445)*. So far the matter has not been brought to court; most corporation lawyers say this will not be necessary because the law is clear on the issue.

The Stock Corporation Law compels board members not to reveal any confidential information they have access to in the exercise of their functions. (Penalties are provided for violating the duty of secrecy.) The 1976 Codetermination Law stipulates that the rights and obligations of board members shall be governed by the rules of the Stock Corporation Law *(Doing Business in Europe, Par. 23,222C)*. Neither law contains anything in support of the union lawyers' arguments that labor representatives on supervisory boards have a special status; they are, however, under far greater pressure to justify their position than shareholders' representatives.

Secrecy Duty (contd.)

It has been the prevailing legal doctrine that a labor representative's obligation to keep company information confidential is absolute and does not allow any exception. Hence, he may not even reveal information to members of the works council or individual employees. However, several corporate law experts believe that the labor representative's duty ends if the supervisory board deliberately withholds information from the works council to which it is entitled; in such a situation the disclosure of information is not contrary to the law, they say.

There is also disagreement among corporation and union lawyers about the type of information covered by the secrecy clause. While corporation lawyers think a broad range of data should be kept confidential, the unions' legal experts maintain that only as much data should be kept secret as are worth protecting since their disclosure would cause damage to the company. Here, too, corporate lawyers are supported by prevailing legal doctrine and the courts: the controlling criterion is whether disclosure would hurt the company in any material or immaterial way.

Netherlands: No Economic Boycott Against South Africa

By a margin of only two votes, the Dutch center-right coalition government on June 27 survived a parliamentary no-confidence motion over its refusal to impose an immediate oil embargo against South Africa in protest of the latter's apartheid policies. The vote was 74-72. An embargo had been demanded not only by the opposition Labor party, which sponsored the motion, but also by members of Premier Van Agt's own Christian Democratic party. Some of these dissidents rejoined party ranks only after it appeared that the outcome of the vote could topple the government.

It was widely agreed, even by the backers of a boycott, that such a step would be merely of a symbolic nature because Holland officially is exporting no crude oil to South Africa at this time and only limited quantities of oil products (valued at 3.6 million guilders in 1979). On the other hand, the Netherlands last year imported South African goods valued at half a billion guilders, primarily gold (165 million guilders) and other metals, fruit (53 million), and hard coal (also 53 million). If a trade embargo were imposed at all, The Hague would favor joint action with its Benelux partners and Scandinavia, but actually it prefers to bring political pressure on the South African regime.

Britain: CBI Drops Plan for Strike Insurance Fund

The Council of the Confederation of British Industry has decided not to proceed with its original plan to establish a strike insurance fund, following consultation with its 4,000 member companies. Only some 10% of these responded

CBI Plan *(contd.)*

to the survey, and only 200 stated that they would definitely be prepared to join such an arrangement. Thirty were totally opposed, and among them were a number of larger corporations. Those in favor of the fund were principally small and medium-sized companies.

The CBI now has come to the conclusion that a strike fund would not be viable, since it would have needed the support of at least 75% of CBI members. However, the insurance brokers who had devised the proposal for the CBI are likely to introduce their own mutual strike insurance fund, though not under the aegis of the CBI.

The Confederation had seen the main purpose of the fund as influencing the overall climate of industrial relations in the U.K. and as providing companies with a countervailing power to that of the trade unions, mindful of the unprecedented number of workdays lost through strikes in 1979. In addition, a need was felt to emphasize employer solidarity.

A variety of reasons appear to have influenced the decisions of CBI members, but the likely cost was clearly a crucial factor, in view of the current low liquidity of companies. There was considerable concern that such a fund would lead to a worsening of labor relations at a time when "economic realities" and mounting unemployment are impressing on union leaders the need for greater cooperation and wage moderation. The very limited response to the general call by the Trades Union Congress for people to stay away from work on the "Day of Action" in May, as a protest against the government's economic policies, has also encouraged employers to take a firmer stand against union demands.

Belgium: Cabinet Passes Tax, Budget Savings Plan

The Belgian government has approved a package of measures combining higher indirect taxes with lower direct taxes and providing for considerable spending cuts. Among other proposed measures, the 5% value-added tax on new investments is to be abolished. Tax cuts will also benefit lower incomes and interest earned from savings deposits. The package is the final result of negotiations among the Christian Democrats, Liberals, and Socialists, who make up Belgium's governing coalition under Premier Wilfried Martens, and will be taken up by Parliament before the summer recess early next month.

The main impact of the increase in indirect taxes would be felt by motorists, who would have to cope with a 1.5% boost in gasoline tax (the diesel tax would not be raised) as well as a 54% average increase in automobile taxes. However, the government has now dropped completely its previous plans for a system of highway tolls. VAT on

Tax Plan (Contd.)

tobacco, cigarillos, and cigars would go up from 6% to 16% and on alcoholic beverages from 6% to 33.6% (in addition to an extra levy of BF 42 on spirits). Still to be determined are the exact tax increases to be levied on luxury goods such as furs and jewelry and on gambling.

The various tax boosts are expected to bring in additional revenues of BF 14 billion annually, with at least BF 6 billion still to come in this year. At the same time, the government is attempting to cut the 1980 budget deficit of BF 80 billion by across-the-board savings of 2.2% on public spending and an additional savings package of BF 11 billion, which still remains to be specified. Furthermore, the government, the political parties, and the industrial partners have yet to agree on means of reducing the deficit of the social security system, which is being kept afloat by massive subsidies paid to the insurance funds.

In other news, the Belgian central bank has reduced its discount rate from 14% to 13% and the Lombard rate from 14.5% to 13%, thus unifying these two rates. Last March 20, the central bank had raised the discount rate from 12% to 14%.

France: Paris Eases Exchange Controls

Following a meeting of the French cabinet, Economics Minister René Monory announced on June 25 a decision to relax France's complex system of controls on currency and foreign exchange. Foreign investors will benefit from the increase from FF 3 million to FF 5 million of the threshold above which their investments in France must be authorized by the government. The threshold below which nonresidents can set up individual companies without special authorization also has been increased, from FF 1 million to FF 5 million. The setting up of property companies by nonresidents, and the purchase of shares in such companies, has been completely liberalized and will henceforth require only a declaration.

Most of the changes, however, benefit France's exporters and importers and thus enhance their competitiveness vis-à-vis their foreign counterparts. Importers of raw material are no longer restricted by a time limit - so far varying from six to 12 months - in covering their purchases against foreign-exchange risks. Exporters, who previously were allowed to accept payment only by bank transfer, may now accept checks or any other means of payment for sums up to FF 50,000. Above that limit, an exporter may still request payment by check so long as the purchaser had not previously solicited this. The threshold above which import and export transactions must be "domiciled" and go through a French bank has been raised from FF 50,000 to FF 125,000. In the past, exporters were not allowed to deposit any of their foreign receipts with a bank abroad; now they may open accounts in foreign banks from which payments

Exchange Curbs *(contd.)*

may be made to cover "local" costs, up to a limit of no more than 5% of the export receipts, or FF 30,000.

Nevertheless, the French government will not allow a considerable easing of restrictions on short-term capital movements and evidently has no intention of following the British example of allowing large balances of its currency to accumulate abroad. French banks are still heavily restricted in their freedom to give French franc credits to nonresidents. This is permitted on a case-by-case basis by the government where deemed necessary to win export contracts. In the future, Paris expects to authorize such credits not only for big deals, as has been the practice so far, but also for smaller contracts.

EURO COMPANY SCENE

American Monitor

American Monitor Corp. of Indianapolis is the ninth U.S. company in two years to locate a major project in Northern Ireland, bringing the overall U.S. investment there to £150 million and the total of new jobs to 5,000. American Monitor will establish a £5.5-million plant in Belfast in a joint venture with the Northern Ireland Development Agency. The plant will manufacture electronic blood analyzing equipment and associated chemical reagents. Last year, U.S.-based Coronary Care Systems had set up a plant in Bangor to produce what was described as the world's most advanced heart defibrillator.

Apple Computer

Apple Computer, Inc., of Cupertino, Calif., plans to begin in September the assembly of computer systems in a plant [illegible] Cork County, Ireland. Employment there is to grow from 6[illegible] initially to 1,400 by 1985. At the same time, the company is opening a European distribution and service center at Zeist, the Netherlands.

Monsanto

The U.S. chemical group Monsanto announced that it would close down the production of silicon at its Ghent (Belgium) plant as of July 18. Affected are 117 of 300 employees, some of whom will be transferred to other jobs. The company said that the manufacture of silicon for the semiconductor industry is no longer profitable at this time.

WMF/ Refreshment Machinery

The U.S. subsidiary of Germany's Württembergische Metallwarenfabrik AG (WMF) has acquired a majority shareholding in Refreshment Machinery, Inc. (RMI), a manufacturer of beverage dispensing automats based in Warminster, Pa. RMI reported for the last business year sales of about $14 million and employs 270.

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Community: Mixed Results on Ecological Measures

The Council of Ministers has reached agreement on the draft directive setting health protection standards for sulphur dioxide and suspended particles in urban areas. After the directive is formally adopted, the Member States will have until April 1, 1983, to take the necessary steps to ensure compliance with the air quality standards. The States must take direct action once sulphur dioxide concentration and suspended particles exceed the limits established by the directive, which provides reference methods for analyzing air pollutants and introduces common rules committing the States to the exchange of information on air pollution.

The Council also agreed on a directive setting forth quality standards for water meant for human consumption. These standards pertain to physico-chemical matters, micro-biological organisms, and undesirable and toxic substances for all water used for consumption and food processing. Following formal adoption, the States will have two years to amend existing national rules or introduce new ones. Compliance with the requirements set forth in the measure must come no later than five years from the date of formal adoption.

French opposition, stemming from disagreement over Member States' responsibilities and Community powers, has

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Mixed Results *(contd.)*

blocked adoption of the so-called Seveso directive. This measure would set forth safety rules to help avoid disasters such as the accidental escape in 1976 of poisonous [illegible] from a plant in Seveso, Italy, that caused severe injuries to hundreds of people and led to the evacuation of the town's population of 5,000. Under the proposal, a manufacturer would have to notify authorities about toxic, explosive or highly flammable substances that are used or produced in a plant, and he would have to describe accident hazards. Improved information to workers as well as national and Community authorities would help prevent accidents and control the situation should an accident happen. The other eight Member State governments were prepared to accept the rules.

France's opposition to the measure allegedly is based on the concern that adoption would set a precedent for two other measures pending before the Council and involving questions of cross-border nuclear safety procedures. One of them calls for prior consultation between States when they plan to build nuclear power plants in border regions. The second measure would require Member State governments to provide neighboring Community countries with an environmental impact assessment of possible damage that might be caused by a nuclear reactor. Both proposals are opposed by France because they would interfere with its ambitious A-plant building program. The French government is already experiencing opposition from Belgium, Luxembourg, and West Germany over the planned or advanced construction of three nuclear power stations near the borders to these countries.

No Clear Court Powers in Law Conflicts Pact

Representatives from all Member States except Denmark and the U.K. last month signed the draft convention on the l[illegible] applicable to contractual obligations and also agreed on a joint declaration attached to the convention. In this declaration initialed in Rome, the signatories agreed to examine the possibility of conferring convention-interpreting powers upon the European Court of Justice and to negotiate an agreement to this effect. The purpose of the convention is to establish uniform rules on conflicts of law within the Community and to offer the national courts solutions in commercial disputes between businesses and individuals from different Member States *(Common Market Reports, Par. 6311)*.

Commission attorneys regret that the Council of Ministers failed to arrive at a more definite commitment with respect to conferring powers of interpretation upon the Court of Justice. Originally the Commission had proposed a draft statement in which the Member State governments were to declare their readiness to start negotiations immediately on a protocol with the same objective - to secure uniform interpretation and identical application of the convention in all States. This statement went beyond the joint declaration attached to the 1968 convention on juris-

Law Conflicts (Contd.)

diction of courts and enforcement of judgments (Brussels Convention) *(Common Market Reports, Pars. 6001, 6080).*

The Council's failure to arrive at a definite commitment is due to resistance from Britain and France, which are questioning the desirability of conferring any additional powers on the Court. Commission attorneys are nevertheless confident that both London and Paris will see the need for an arrangement even before national courts come up with diverging interpretations of individual articles of the convention. They say that there is still ample time for an arrangement because it may take a few years until the convention takes effect (it must be ratified by the national legislatures). They point out that the Brussels Convention was signed in 1968 and took effect in the original six Member States five years later, on Jan. 1, 1973. The Protocol, which confers interpretative powers upon the Court and required several years of negotiations, was signed in 1971 and took effect in the original States on Sept. 1, 1975 *(Common Market Reports, Pars. 6001.01, 6001.29, 6081).*

Meanwhile, governments are searching for ways to start talks to come as early as possible to an arrangement concerning the Court. Pressure is being applied in particular by the Dutch government, which has vowed to initiate the ratification procedure for the convention only after a solution has been found with respect to the Rome declaration on the Court's role in interpreting the convention. The Netherlands has set July 1981 as a deadline for such an arrangement.

Brief...

The European Court of Justice has upheld the Commission's right to send agents to company premises without prior announcement to seize confidential documents. This right is provided in Article 14 of Regulation No. 17/62 *(Common Market Reports, Pars. 2531, 2532).* In a test case brought by Britain's Panasonic, a subsidiary of the Japanese industrial giant Matsushita Electric, this right was challenged with the argument that Article 14 empowers the Commission to authorize an on-the-spot investigation only after the company has been given an opportunity to come forward with the wanted information voluntarily. The Court rejected this argument. Denying the Commission this right, the Court said, would mean the EC executive could not effectively carry out its role as an enforcement agency of EEC competition rules because otherwise important documents might be destroyed (judgment of June 26, *Panasonic v. Commission*, Case No. 136/79) + + + The Commission has been partially successful in stopping the leading Scandinavian newsprint companies from continued price fixing through their three sales outlets in the Common Market. The Swedish and Norwegian companies, among them the big Svenska

In Brief *(contd.)*

Cellulosa and Stora-Kopparbert, have agreed to sell individually and independently in the future. Finnish companies that participate in the cartel have so far refused to bow to Commission demands.

Germany: Compromise Ends Wrangle Over Tax Breaks

An extended wrangle between the Bonn federal government and the Opposition over proposals to provide major tax relief for individuals ended with a compromise reached in conference. The compromise bill, approved by both houses of Parliament, was made possible by a major concession on the state governments' part: they agreed to share half of the DM 2-billion financial load resulting from increased childrens' allowances. All in all, tax relief amounting to slightly more than DM 16.4 billion will be DM 900 million less than what the government originally proposed (DM 17.3 billion) and far more than what the Opposition wanted with its own tax bill (DM 12.8 billion).

Part of the compromise is the agreement that the pending negotiations between the federal government and the state administrations aimed at changes in the current revenue-sharing system were postponed for another year. Bonn has been seeking a higher percentage of VAT revenue in order to meet its increased expenditures in the foreign policy field *(Doing Business in Europe, Par. 23,393)*.

As of February 1981 taxpayers will receive monthly cash payments of DM 120 for their second child and DM 240 for the third and each additional child; this is DM 20 and DM 40, respectively, more than what they receive now. However, there will be no increase in the DM 50 monthly cash payment at present received for a first child *(Doing Business in Europe, Par. 23,311)*.

The conferees dropped the clause that would have provided mothers with DM 300 cash a month during the first six months after giving birth. A long-standing disagreement between the federal government and the Opposition-controlled state houses over the extent of proof of costs incurred for child care was settled so that the provision will be retained (the government had proposed its repeal). There will be less red tape, however: parents can continue to deduct DM 1,200 per child, but they will have to present receipts for only DM 600 of that amount.

Individual taxpayers will be allowed an increased Christmas bonus exemption (DM 600 instead of DM 400) retroactively as of Jan. 1, 1980. Individual taxpayers in the low-income brackets will have less of their income subjected to the progressive tax rate, and taxpayers with medium incomes will be even better off.

Only one amendment of the bill will affect businesses and will save them an expected DM 500 million in net worth

Tax Breaks
(Contd.)

taxes. Company pension reserves that are deductible as an expense on the income tax return will also be a deductible item on the net worth balance sheet *(Doing Business in Europe, Par. 40,032)*.

Italy:
Rome Approves Tough Economic Crisis Program

The Italian government early this month approved a number of economic policy measures that are even stricter than had been forecast. Although labor union pressures prevented a temporary and partial freeze of the system of automatic wage indexation *(scala mobile)*, the other measures would mean a considerable weakening of purchasing power for most consumers. Additional fiscal revenues (3,700 billion lire) and a number of expenditure cuts (2,800 billion) would avail the government of extra funds totaling 6,500 billion lire. Of this amount, 3,200 billion lire would be used to ease the social insurance burden for employers, while the rest would reduce the public budget deficit. A new proportional levy on employment incomes would flow into a special fund to prop up ailing industrial enterprises and sectors, particularly in the southern regions.

By putting a damper on domestic demand and promoting export competitiveness, the Cossiga administration is hoping to give relief to the strained trade balance and to the lira. The weakness of the lira has been a problem for Italian exporters in the past few months, with speculation against the currency intensifying especially after the Fiat management repeatedly demanded a devaluation.

The new mandatory levy of 0.5% would be withheld from all wages and salaries and would flow into a "solidarity fund," earning interest at a yet undetermined rate. The administration of the fund, which is expected to accumulate about 800 billion lire this year alone, would be shared by the labor unions. The fund would primarily provide subsidies for maintaining employment in the unprofitable enterprises of southern Italy.

Seeing no chances whatsoever to raise direct taxes, Rome has decided on considerable value-added tax increases instead. At the same time, the VAT structure would be somewhat simplified by retaining only five of the present eight rates - 2% and 8% for basic consumer items (bread, wine, etc.), 15% instead of 14% as the standard rate, and 18% or 35% for luxury-type products. For a few oil products, VAT would be raised from 12% to 18%. (Gasoline prices already have gone up from 700 to 750 lire per liter for regular grade - the sixth increase this year.) The spirits tax would be boosted by 2,000 lire per liter, which would result in 50% increases at retail level.

The Cossiga administration also plans to crack down harder on tax evasion, specially of VAT, hoping for another

Crisis Program *(contd.)*

1,000 billion lire in revenue alone from this source. After tightening surveillance in the hotel and gastronomic sector last winter, the fiscal authorities have now singled out other sectors - auto repair shops, hair dressers, jewelers, and fur retailers, for instance.

Immediately following the announcement of the economic austerity program, Italian consumers also were told of a rash of increases in administrated prices and fares - domestic air fares by 15%, freeway tolls by 10%, electric power charges by a total of 750 billion this year, drug prices by 2%, and bread prices by 100-200 lire per kilogram.

Economic observers were suprised by the extent of the "fiscalization" of employer contributions to the social insurance system. Whereas the total to be absorbed by the budget was originally given as 2,000 billion lire, this has now been raised to 3,200 billion. There were comments to the effect that with this generosity, the government is trying to pacify the exporters, who have been complaining of shrinking profit margins. Only 400 billion lire, on the other hand, are being set aside for ailing industrial sectors, particularly automobiles, textiles, and household appliances. However, the semi-public telephone sector would be receiving special allocations of 2,500 billion lire; these funds would serve to revive investment activity, which had been suspended half a year ago, and to protect some 50,000 jobs in that industry.

Britain: Role of Financial Institutions Probed

After more than three years of deliberations and at a cost of more than £300,000, the U.K. Committee to Review the Functioning of Financial Institutions has finally produced its report (Cmnd. 7937). Headed by ex-premier Sir Harold Wilson, the Committee was set up in 1976 after the Labour Party leadership had advocated nationalization of the clearing banks and insurance companies.

In its report, the Committee actually advises against extending the public sector into the banking and insurance sectors. However, it says that "had we been designing a completely new system, some of us would have believed that there was a role for publicly owned banks." The Committee also is critical of the building societies, which now have very substantial assets after rapid growth in recent years, and the fact that competition between them is extremely constrained by a "recommended rate system." This is a cartel operated by the major societies in fixing mortgage and interest rates. The Committee suggests that the system be dismantled, so that societies would be free to rival each other in setting their own rates.

The report highlights the growing economic importance

Institutions (Contd.)

of the financial institutions, especially the insurance companies and pension funds, which has now become "an issue of general concern." According to the Committee, these institutions are not yet always sufficiently active in exercising their responsibilities as major shareholders, and there is no comprehensive framework for securing the accountability of pension funds. These funds now control enormous resources and should be brought under stricter legislative control. They should be required to disclose details of their investments, which in turn would lead to increased competitiveness among fund managements.

The Committee says it has examined the contention that real-term investment in the U.K. has been unnecessarily held back by shortages in the supply of external finance. This was not generally the case, the report concludes. In general, it was the price of finance in relation to expected profitability that was the major obstacle, since "the perceived real cost of capital is now almost certainly higher than the average real profitability of industrial and commercial companies." The Committee recommends the establishment of a loan guarantee scheme on an experimental basis, the operation of an English (Industrial) Development Agency to supplement those concerned with Scotland and Wales, and the encouragement of a new form of investment trust. The latter would essentially invest in small companies; individuals who purchased shares of those companies should be given tax relief. It is suggested that capital gains tax apply to gilt-edged or government securities in the same way as to other forms of investment; at present no tax is payable if the securities are retained for at least one year.

France: New Round of Price Boosts; OECD Survey

July traditionally brings France the year's second major wave of price increases. Commuter fares in the Paris region shot up by between 17% and 21%. Gasoline prices were already increased last month, with a liter of premium grade now costing FF 3.45. Highway tolls are also expected to go up. Rents were increased by 11-20% for rent-controlled housing and by 13-20% for uncontrolled accommodations. The state tobacco and matches monopoly, Seita, announced a price rise of 15%, effective July 15; 70% of the higher takings will be tax revenues. Social and health insurance contributions went up by 1-2% following larger increases earlier this year.

The price rises were accompanied by an improvement in social benefits averaging 15%. The biggest allowance increases, 17%, were reserved for families with at least three children and rent support for the needy. Old-age and disability pensions were raised by 6.4%, for a 12.1% total since the beginning of this year. In addition there was a

Price Boosts *(contd.)*

2% upward adjustment of the minimum wage to take account of inflation, and the Ministry of Labor is urging another boost of 0.5-1% to the purchasing power of low-income families.

The consumer price index registered a 15.3% annual rate of increase in the first five months of 1980. Nevertheless, Economics Minister René Monory is hopeful that by December the index will only show an overall rise of 12.5% for the year. The inflation outlook has considerably worsened since last year, when the consumer price index rose by 10.7%.

The recently issued OECD Survey on France forecasts a 13% rate of inflation and a GNP growth rate of 2% for this year. The economy is expected to slow down to a 1% annual rate of growth in the second half of 1980, with industrial production falling by 3% (after a rise of 8% in the second half of 1979). In May car sales fell by 20% compared to the same month last year. Although slowing economic activity may dampen imports, the weaker export performance of French industry resulting from the inflation-induced deterioration in competitiveness will bring about a further worsening of the payments balance. The OECD forecasts a $3-billion current-account deficit for 1980, with the trade deficit expected to increase to $7.3 billion from $1.3 billion last year.

Belgium: Decline of Foreign Investment

Foreign investment in Belgium totaled BF 10.7 billion last year, reports the Ministry of Economics in Brussels. Expressed in nominal prices, this was 10.5% less than in 1978. Out of a total of 553 projects, 32 were in industry, 326 in trade, and 195 in tourism, insurance, and other service sector businesses. In 1977 and '78, the investment total had been spread out over more than 1,000 projects. However, in 1979 a greater proportion of investment flowed into industry, and the average amount of investment per project was higher. Investment in trade and services fell by about half when measured according to both the sum invested and the total number of projects.

Investment in industry was particularly concentrated in the chemical and petrochemical sectors as well as in food processing. In the petrochemical sector, it was boosted by the sale of the RBP Refinery to Coastal Gas in the U.S. and the takeover of the Albatros Refinery by a German group. Foreign investment created only 630 new jobs in 1979.